

Administrative Change

An administrative change to this directive was approved on 6-4-08. In accordance with the Departmental Directives System:

Administrative Changes are simple changes that do not substantively affect the directive. Examples of such changes are nomenclature changes to organization names or titles of officials, changes to legal citations, and minor reductions in requirements and responsibilities.

To see the redline/strikeout of changes for this administrative change, please click on <http://directives.doe.gov/reference/o323.1AdmChgFinalMarkup6-4-08.pdf>.

U.S. Department of Energy
Washington, D.C.

ORDER

DOE O 323.1

Approved: 8-1-04
Admin Chg 1: 6-4-08

This directive was reviewed and certified as current and necessary by James T. Campbell, Acting Director, Office of Management, Budget and Evaluation/Chief Financial Officer, 8-1-04.

SUBJECT: GARNISHMENT OF FEDERAL EMPLOYEES' PAY

1. **OBJECTIVES.** To prescribe the procedures for collecting from an employee's pay those amounts subject to legal process brought for—
 - a. enforcement of the employee's legal obligations to provide child support and/or make alimony payments and
 - b. commercial garnishments.
2. **CANCELLATIONS.** DOE O 2200.11, *Processing Garnishment Orders for Child Support and/or Alimony*, dated 2-12-88. Cancellation of an Order does not, by itself, modify or otherwise affect any contractual obligation to comply with the Order. Canceled Orders that are incorporated by reference in a contract remain in effect until the contract is modified to delete references to the requirements in the canceled Orders.
3. **APPLICABILITY.**
 - a. Primary Department of Energy (DOE) Organizations, Including National Nuclear Security Administration (NNSA) Organizations. Except for the exclusions in paragraph 3c, this Order applies to all Primary DOE Organizations (see Attachment 1 for a complete list of Primary DOE Organizations). This Order automatically applies to Primary DOE Organizations created after it is issued.

The NNSA Administrator will ensure that NNSA employees and contractors comply with requirements of this Order.
 - b. Site/Facility Management Contractors. Not applicable.
 - c. Exclusions. None.
4. **REQUIREMENTS.**
 - a. Legislation.
 - (1) Amendments to the Social Security Act of 1935 [Public Law (P.L.) 74-271] have established that Government agencies and the District of Columbia will support the enforcement of employees' legal obligations to pay child support, alimony, and commercial debt by withholding

portions of (garnishing) employee income in response to legal process served to Government agencies. Requirements and limits are detailed in—

- (a) Title 42 United States Code (U.S.C.) 659, “Consent by the United States to income withholding, garnishment, and similar proceedings for enforcement of child support and alimony obligations”;
 - (b) 42 U.S.C. 666, “Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement”;
 - (c) 15 U.S.C. 1673, “Consumer Credit Protection Act”;
 - (d) 5 U.S.C. 5520a, “Garnishment of Pay”;
 - (e) 5 Code of Federal Regulations (CFR) 581, “Processing Garnishment Orders for Child Support and/or Alimony”;
and
 - (f) 5 CFR 582, “Commercial Garnishment of Federal Employees’ Pay.”
- (2) Income from which funds can be withheld is detailed in 5 CFR 581.103, “Moneys Which Are Subject to Garnishment,” and 5 CFR 582.102 (5), “Definition of Pay,” which includes compensation such as wages, salary, commission, or bonus pay, less exclusions included in paragraph 5c, below.
- b. Definitions. See paragraph 10 for definitions of terms applicable to this Order.
- c. Legal Process.
- (1) DOE is required to designate agents who will accept service of legal process for commercial garnishments and court ordered child support and/or alimony payments.
 - (2) DOE is also required to submit to the Office of General Counsel of the Office of Personnel Management (OPM), the following information concerning designated agents:
 - (a) title,
 - (b) mailing address,
 - (c) telephone number, and
 - (d) geographic area or region.

- (3) Designated agents receive legal process documents by certified or registered mail, return receipt requested, or by personal service. (NOTE: For child support or alimony Orders, legal process does not need to be made by certified or registered mail, return receipt requested, or by personal service.) This begins the DOE compliance process which is specified below. (NOTE: The legal process does not need to expressly name DOE as the garnishee.)
- (4) Designated agents document the date and time the legal process was received and review identifying information in the legal process to ensure that it is sufficient to enable processing. The following information, if known, about the employee who is the subject of the legal process must be provided:
 - (a) full name;
 - (b) date of birth;
 - (c) employment number or Social Security number;
 - (d) DOE office and official duty station or worksite; and
 - (e) for commercial garnishments, the home address or current mailing address.

d. Response.

- (1) For commercial garnishments, DOE must respond to the legal process in the same manner as would a private entity. It is not necessarily required that the legal process be signed by a judge.
- (2) When an agent has been effectively served with an order, process, or interrogatory, appropriate response is as follows:
 - (a) The agent sends written notice as soon as possible, but not later than 15 calendar days after receipt, to the employee obligor;
 - (b) The agent responds to a validly served legal process and accompanying interrogatories within 30 calendar days after receipt (or by the deadline prescribed by applicable State law).

1 Longer periods for response may be prescribed by State or local law and in compliance with provisions of 42 U.S.C. 666 for child support or alimony, including the following:

- a If the individual is identified in court orders brought for more than one debt owed or for debts owed to more than one person, the agent will give priority to child support and alimony over any other legal process under State law against the same income.
 - b Moneys that remain after garnishment for child support and/or alimony debt has been calculated will be available to satisfy any remaining legal process on a first-come, first-served basis (subject to the limitations and restrictions in paragraphs 5 and 6 of this Order).
 - c If information sought in an interrogatory is not available to the designated agent or the agent's counsel and the proper person to respond can be identified, the interrogatory will be forwarded to that person in sufficient time to allow for timely response.
- 2 When State or local law authorizes issuance of interrogatories before or after the issuance of a legal process, the agent responds to the interrogatories within 30 calendar days after receipt unless a longer period is prescribed by State or local law.
- 3 For child support or alimony orders, the response deadline is applicable provided that the required documents have been presented [see paragraph 4d(4), below].
- (c) The agent withholds available sums in response to the order.
- (3) When the information provided is not sufficient to identify the employee whose income is to be garnished—
 - (a) the agent returns the legal process to the originating court or other authority with an explanation of the deficiency, and
 - (b) prior to returning the legal process, and if there is sufficient time, the agent will attempt to inform the party who initiated the legal process or the party's representative that the legal process will not be honored unless adequate information is supplied.

- (4) If it cannot be confirmed that the legal process was served to enforce a legal obligation, the designated agent requests a certified copy of the court order or other document establishing legal obligations as defined in paragraphs 10a (alimony) and 10b (child support).
- (5) If State or local law allows the legal process to be issued without a support order, the agent requests documentation required to show the employee's legal obligation to pay alimony or child support.
- (6) If there is doubt as to the authenticity of the legal process (e.g., a child support order or related documentation is not stamped with the applicable State or local seal), the agent forwards the legal process to the Office of General Counsel for Headquarters or Chief Counsel at field organizations¹ for review and concurrence.
- (7) If it is determined that the individual identified as employee obligor does not receive income from DOE, the agent returns the legal process to the court or other authority from which it was issued and advises the court or other authority that the individual does not receive moneys from DOE.
- (8) The agent also advises the court or other authority when it appears that the remuneration for employment is temporarily exhausted or otherwise unavailable and explains why and for how long the remuneration will be unavailable, if that information is known by DOE.
- (9) When an employee who is the subject of legal process leaves DOE employment, the agent will provide to the party who brought the legal action (or the party's representative) and the originating court (or other authority)—
 - (a) notification that payments are to be discontinued and
 - (b) the name of a contact person for the new disbursing governmental entity when DOE knows that the employee—
 - 1 has a Thrift Savings Account,
 - 2 has retired,
 - 3 separated and requested a refund of retirement contributions,
 - 4 has transferred, or

¹Operations offices, service centers, site offices, area offices, and regional offices of federally staffed laboratories.

5 is receiving benefits under the Federal Employees' Compensation Act.

5. LIMITATIONS.

- a. Moneys that are not subject to garnishment are—
- (1) payments made pursuant to provisions of the Federal Tort Claims Act, 28 U.S.C., 1346(b) and 2671, et seq.;
 - (2) refunds and other payments made in connection with overpayment or erroneous payment of income tax and other taxes levied under the Internal Revenue Code (26 U.S.C.);
 - (3) grants;
 - (4) fellowships;
 - (5) contracts, except where the contractor recipient performed personal services and received payments in his or her capacity as an employee of a Government entity; and
 - (6) reimbursement for expenses incurred by an individual in connection with his or her employment or allowances in lieu of reimbursement and other payments, including—
 - (a) uniform allowances,
 - (b) travel and transportation expenses including mileage allowances,
 - (c) relocation expenses,
 - (d) storage expenses,
 - (e) post differentials,
 - (f) foreign areas allowances,
 - (g) education allowances for dependents,
 - (h) separate maintenance allowances,
 - (i) post allowances and supplementary post allowances,
 - (j) home service transfer allowances,
 - (k) quarters allowances,

- (l) cost-of-living allowances when applicable to an employee in a foreign area or an employee stationed outside the continental United States or in Alaska;
 - (m) remote worksite allowances, and
 - (n) per diem allowances.
- b. Moneys due a deceased employee obligor are not subject to garnishment for alimony and/or child support [per 5 CFR 581.104(i)] where the amounts are for reimbursement for expenses incurred in connection with his or her employment or allowances in lieu thereof, including—
 - (1) per diem instead of subsistence, mileage, and amounts due for reimbursement of travel expenses (including incidental and miscellaneous expenses);
 - (2) allowances on change of official station;
 - (3) quarters allowances;
 - (4) cost-of-living allowance as a result of being stationed in a foreign area or an area outside the continental U.S. or in Alaska; and
 - (5) cash awards for employee suggestions.
- c. Exclusions to be made when determining the amount due from DOE are defined in 5 CFR 581.105 and 5 CFR 582.103, as follows:
 - (1) withholdings required by law (e.g., Social Security and Medicare taxes);
 - (2) Federal, State, or local income tax withholdings authorized or required by law, if the amounts withheld are not greater than would be withheld if the employee claimed all dependents to which he or she was entitled [NOTE: Pursuant to 26 U.S.C. 3402(i), withholding of additional amounts may be permitted only when the employee presents supporting evidence of a tax obligation.];
 - (3) health insurance premium withholdings;
 - (4) normal retirement contributions, except deductions for supplemental coverage [NOTE: Amounts contributed under 5 U.S.C. 8351 for the Civil Service Retirement System and 5 U.S.C. 8432(a) for the Federal Employees Retirement System to the Thrift Savings Fund are normal retirement contributions. Amounts voluntarily contributed toward additional civil service annuity benefits are supplemental.];

- (5) normal life insurance withholdings such as Basic Life Federal Employees' Group Life Insurance premiums (not including deductions for all Optional Federal Employees' Group Life Insurance premiums and other life insurance premiums paid for by allotment);
- (6) debts that the employee owes to the United States. (Exception: When complying with the legal process for the support of minor children, a debt based on a levy for income tax under 26 U.S.C. 6331 will not be excluded if the legal process was entered prior to the date of the levy.)

NOTE: When complying with the legal process for commercial garnishment, child support and/or alimony withholdings are not exclusions.

- d. Payments which may be due to an employee at some future date will not be considered due unless and until all of the conditions necessary for payment of the moneys to the employee have been met, including, but not limited to, the following conditions:
 - (1) retirement,
 - (2) resignation, or
 - (3) application for payment of moneys by the individual.

6. CONSUMER CREDIT PROTECTION ACT RESTRICTIONS.

- a. Aggregate Disposable Earnings. When used in reference to amounts due from or payable by the United States or the District of Columbia, which can be garnished under the Consumer Credit Protection Act, aggregate disposable earnings are the employee obligor's remuneration for employment less exclusions (paragraph 5c, above).
- b. Maximum Garnishment Limitations for Child Support and/or Alimony.
 - (1) Pursuant to the Consumer Credit Protection Act [15 U.S.C. 1673(b)(2)(A) and (B)], as amended, unless a lower maximum garnishment limit is set by State or local law, aggregate disposable earnings subject to garnishment will not exceed—
 - (a) Fifty percent of the aggregate disposable earnings for a work week—when the employee obligor provides affidavit or other acceptable evidence that he or she is supporting a spouse and/or dependent child other than those for whom a support order has been issued.

NOTE: An employee obligor is considered to be supporting a spouse, dependent child, or both only if he or she provides over

half of the support for a spouse, dependent child, or both.

(b) Sixty percent of the aggregate disposable earnings for any work week—when the employee obligor fails to assert by affidavit or provide other acceptable evidence that he or she is supporting a spouse and/or dependent child other than those for whom a support order has been issued.

(c) The percentages in either case (a) or (b) above will be increased an additional 5 percent when—

1 the legal process appears on its face to be brought for the enforcement of a support order for a period which is 12 weeks or more in arrears or

2 a certified copy of a support order or other evidence acceptable to the designated agent establishing that support is 12 weeks or more in arrears is submitted.

(2) When an employee submits evidence that he or she is supporting more than one spouse and/or child under a separate legal process, the designated agent will send copies of the evidence to the garnishor or the garnishor's representative and to the court or other authority with notification that the employee obligor's support claim will be honored.

(3) When an employee obligor is receiving remuneration from more than one government entity, the limitations described in paragraph 6b(1) apply to the combined total aggregate disposable earnings.

c. Maximum Limitations for Commercial Garnishments. Pursuant to the Consumer Credit Protection Act [15 U.S.C. 1673(a)(1)] and Department of Labor regulations 29 CFR 870, "Restriction on Garnishment," unless a lower maximum garnishment limitation is set by State or local law, the maximum amount of aggregate disposable earnings subject to garnishment to enforce a legal debt other than child support or alimony [including withholdings to offset administrative costs per 5 CFR 582.305(k)] will not exceed—

(1) Twenty-five percent of aggregate disposable earnings for any work week, with the following limitations.

(a) When an Agency is garnishing 25 percent or more of an employee's aggregate disposable earnings to comply with support orders, no additional amount may be withheld for a commercial garnishment.

- (b) If aggregate disposable earnings for a work week are less than 40 times but more than 30 times the Fair Labor Standards Act (FLSA) minimum hourly wage, only the amount above 30 times the FLSA minimum hourly wage can be garnished.
 - (c) If aggregate disposable earnings in a work week are equal to or less than 30 times the FLSA minimum hourly wage, earnings may not be garnished in any amount.
- (2) State or local law should be construed as providing a lower maximum limitation where legal claims may be processed only on a one-at-a-time basis.
- (3) There are no maximum garnishment limits for Federal, State, or local tax obligations or for an order of any court of the United States having jurisdiction over bankruptcy cases under 11 U.S.C. Chapter 13.

7. COMPLIANCE WITH PROCESS.

- a. Suspension of Pay. Upon proper service of a legal process and having acquired all supplementary documents and information as required [see paragraphs 4c(3), 4d(1), (4), and (5), above], the designated agent will identify the employee obligor and suspend (withhold) payment of a portion of the employee obligor's pay for the amount necessary to comply with the legal process.
- b. Notification of Employee Obligor.
 - (1) As soon as possible and not more than 15 calendar days after valid service of legal process, the designated agent will send written notice containing the following information to the employee obligor at his or her duty station or last known home address:
 - (a) that the legal process has been served, including a copy of the legal process and other documents as may be required [see paragraphs 4d(1), (4), (5), and (6), above];
 - (b) maximum garnishment limitations for child support and alimony (see paragraph 6b, above) with a request that the employee submit affidavits or other documentation needed to determine percentage limits;
 - (c) that by submitting supporting affidavits or other documentation, the employee consents to the disclosure of this information to the garnishor; and

- (d) the percentage to be deducted (based on the legal process and the limitations and restrictions in this Order) if he or she fails to submit the documentation necessary to enable DOE to respond to the legal process and interrogatories within 30 calendar days after receipt or within a longer period that may be prescribed by State or local law. (NOTE: The written notice to the employee obligor may include a copy or reference to this Order to support how the percentage was determined.)
 - (2) The designated agent may provide the employee with copies of documents submitted in support of the legal process and the following additional information:
 - (a) that DOE does not represent the interests of the employee obligor in the pending legal proceedings,
 - (b) that the employee may wish to consult legal counsel regarding defense to the legal process, and
 - (c) that if the employee has applied for or been granted a DOE access authorization, garnishment of wages must be reported to the appropriate personnel security office as required by DOE O 472.1C, "Personnel Security Activities."
- c. Nonliability for Disclosure.
 - (1) No Federal employee whose duties include responding to interrogatories pursuant to paragraphs 4d(2)(b) and (c) of this Order will be subject to disciplinary action, civil or criminal liability, or penalty for disclosing information pertaining directly or indirectly to answering these interrogatories.
 - (2) DOE would not be precluded from taking disciplinary action against an employee who consistently or purposely failed to provide correct information requested in interrogatories.
- d. Honoring Legal Process.
 - (1) Compliance. DOE will comply with legal process, except when—
 - (a) the legal process does not on its face conform to the laws of jurisdiction from which it was issued,
 - (b) the legal process would require withholding funds that are not deemed due from or payable by DOE as remuneration for employment,

- (c) an order has been served on DOE from a court of competent jurisdiction that enjoins or suspends operation of the legal process,
- (d) the legal process does not comply with mandatory provisions of this Order,
- (e) for commercial garnishments, the process does not comply with 5 U.S.C. 5520a, or
- (f) the legal process is not brought to enforce legal obligations for alimony and/or child support.

(2) Appeal by Employee Obligor.

- (a) Garnishment Orders for Child Support and/or Alimony. When DOE receives notice that the employee obligor has appealed the legal process or the underlying alimony and/or child support order, DOE will continue to withhold the moneys required by the legal process and payments will be suspended (i.e., withheld amounts will be retained by DOE) until ordered by the court or other authority to resume payments or otherwise disburse the suspended amounts.

1 Suspension will not occur when the applicable law of the jurisdiction where the appeal is filed requires compliance with the legal process while an appeal is pending.

2 When the legal process has been issued by a court in the District of Columbia, a motion to quash (set aside or nullify the action) will be considered equivalent to an appeal.

- (b) Commercial Garnishment. Generally, the filing of an appeal will not delay processing of a garnishment action.

1 If the employee obligor establishes to the satisfaction of DOE that the law in the jurisdiction which issued the legal process permits suspending processing during an appeal and establishes that he or she has filed an appeal, DOE will comply with the applicable law of the jurisdiction and delay or suspend garnishment processing.

2 DOE will not be required to establish an escrow account to comply with the legal process even if the applicable

law of the jurisdiction requires private employers to do so.

(3) Attorney Fees, Interest, Court Costs, and Administrative Fees.

(a) Garnishment Orders for Child Support and/or Alimony. Before withholding moneys for the payment of attorney fees, interest, and court costs, DOE must determine that the legal process meets all of the following requirements.

- 1 The legal process must expressly include attorney fees, interest, and/or court costs as part of (rather than in addition to) child support and/or alimony payments.
- 2 The awarding of attorney fees, interest, and/or court costs as child support and/or alimony must be within the authority of the court, authorized official, or State agency that issued the legal process.
- 3 It will be considered to be within the authority of the court, authorized official, or authorized State agency to award attorney fees as child support and/or alimony if the order is not in violation of or inconsistent with State or local law even if State or local law does not expressly provide for such an award.

(b) Commercial Garnishments.

- 1 Within 30 days following the collection of the amount required in the garnishment order, the creditor may submit a final statement of interest that accrued during garnishment, and provided that the garnishment order authorizes the collection of such interest, DOE will process the statement for payment. The final statement of interest should be accompanied by a statement of account showing how the interest was computed.
- 2 DOE's administrative costs in executing a garnishment may be added to the garnishment amount and DOE may retain costs recovered as offsetting collections.
- 3 An administrative fee may be assessed for each legal process that is received and processed, provided that the fee constitutes the Agency's administrative costs in executing the garnishment action.

e. Compliance Exceptions and Liabilities.

- (1) Under the circumstances set forth in paragraph 7d(1) or 7e(7) or when the Justice Department directs DOE not to comply with a legal process, DOE will respond directly to the court or other authority that served the legal process stating the objections to compliance. In addition,
 - (a) DOE will inform the garnishor or the garnishor's representative that the legal process will not be honored, and
 - (b) if litigation is initiated or threatened, DOE will immediately refer the matter to the United States Attorney for the district from which the legal process was issued.
- (2) When DOE is served with more than one legal process to garnish moneys due or payable to one individual,
 - (a) alimony and child support will have priority over any other legal process under State law against the same income;
 - (b) moneys will be available to satisfy other legal processes on a first-come, first-served basis; and
 - (c) in no event will the total amount garnished for any pay or disbursement cycle exceed the applicable limit set forth in paragraph 6b for child support and/or alimony and paragraph 6c for commercial garnishments.
- (3) DOE or any disbursing officer will not be liable for payment made from moneys due from or payable by DOE to any individual pursuant to legal process that appears regular on its face if payment is made in accordance with this Order and 5 CFR 581 (child support and/or alimony) or 5 CFR 582 (commercial garnishments). However,
 - (a) if through negligence, DOE fails to comply with the legal process for child support and/or alimony, DOE will be liable for the amount that would have been paid if the legal process had been honored properly, and
 - (b) for commercial garnishments, neither DOE nor any disbursing officer will be liable to pay money damages for failure to comply with the legal process.
- (4) DOE will not vary normal pay or disbursement cycles to comply with the legal process. However,

- (a) when a valid legal process is received too late to be honored during the disbursement cycle in which it is received, it will be honored to the extent possible (see paragraph 6b and 5 CFR 581.402 for child support and/or alimony or paragraph 6c and 5 CFR 582.402 for commercial garnishments) during the next disbursement cycle;
 - (b) the fact that the legal process may have expired during the disbursement cycle would not relieve DOE of its obligation to honor a legal process that was valid at the time the court order was served; and
 - (c) if DOE will owe no further pay to the employee obligor in the next disbursement cycle, procedures set forth in paragraphs 4d(8) and (9), above, will apply.
- (5) If DOE receives a legal process which on its face appears to conform to the laws of the jurisdiction from which it was issued, DOE will not be required to ascertain whether the authority which issued the legal process had obtained personal jurisdiction over the employee obligor.
- (6) For garnishment orders for child support and/or alimony, failure of the garnishor to comply with the Revised Uniform Reciprocal Enforcement of Support Act of 1968 will not, by itself, be a valid basis for DOE to refuse to comply with a legal process.
- (7) For a commercial garnishment order which on its face indicates that it has expired or is no longer valid, the legal process will be considered valid regardless of the fact that the underlying debt or judgment arose before the effective date of 5 U.S.C. 5520a.
- (8) For commercial garnishments, where an employee obligor has filed a bankruptcy petition under 11 U.S.C. 301 or 302 or the debtor is named in an involuntary petition filed under section 11 U.S.C. 303, DOE must cease garnishment proceedings affected by the automatic stay provision of 11 U.S.C. 362(a).
- (a) An employee obligor should notify DOE immediately when filing a bankruptcy petition or is named the debtor in an involuntary petition.
 - (b) In order for DOE to determine if the automatic stay applies, the employee obligor should provide a copy of the filing or a letter from counsel stating that the petition was filed, including—
 - 1 the court and case number,
 - 2 the chapter under which the petition was filed,

- 3 whether State or Federal exemptions were elected, and
- 4 the nature of the claim underlying the garnishment order.

8. RESPONSIBILITIES.

a. Chief Financial Officer or Designee.

- (1) Designates agents to accept service of legal process.
- (2) Submits a list of designated agents to OPM.
- (3) Makes every reasonable effort to ensure that legal processes may be validly served on designated agents.

b. Designated Agents.

- (1) Receive, process, and respond to the legal process documentation within prescribed deadlines.
- (2) Request required documentation to support the legal process and determine withholding percentages.
- (3) Forward the legal process to the General Counsel for Headquarters or field Chief Counsel organization for review and concurrence if there is any doubt as to the authenticity of the legal process.

c. Office of Counsel for Headquarters or Field Chief Counsel Organizations.

- (1) Review, concur, and provide guidance on legal processes as requested by designated agents.
- (2) Initiate legal action as required under the legal contingencies cited in paragraph 7d, above.

9. REFERENCES.

- a. 5 CFR 581, "Processing Garnishment Orders for Child Support and/or Alimony," which implements 42 U.S.C. 659, as amended (online at http://www.access.gpo.gov/nara/cfr/waisidx_03/5cfr581_03.html).
- b. 5 CFR 582, "Commercial Garnishment of Federal Employees' Pay," which implements 5 U.S.C. 5520a, as amended (online at http://www.access.gpo.gov/nara/cfr/waisidx_03/5cfr582_03.html).

- c. 15 U.S.C. 1673, Consumer Credit Protection Act, as amended, which provides restrictions on the maximum part of aggregate disposable earnings subject to garnishment (online at <http://uscode.house.gov/usc.htm>).
- d. 42 U.S.C. 659, "Consent by United States to Income Withholding, Garnishment, and Similar Proceedings for Enforcement of Child Support and Alimony Obligations," as amended, which provides that remuneration for employment by the United States or the District of Columbia to any individual will be subject to legal process brought for the enforcement of a legal obligation to provide child support and/or make alimony payments, as if the United States or the District of Columbia were a private person (online at <http://uscode.house.gov/usc.htm>).
- e. 42 U.S.C. 666, "Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement," which describes the procedures for the withholding of income for child support required to be in effect by State law (online at <http://uscode.house.gov/usc.htm>).
- f. 5 U.S.C. 5520a, "Garnishment of Pay," which provides that pay from an agency to an employee is subject to the legal process in the same manner and to the same extent as if the agency were a private entity. This section does not override 42 U.S.C. 659 (online at <http://uscode.house.gov/usc.htm>).
- g. Executive Order 12105, "Garnishment of moneys payable to employees of executive agencies and the District of Columbia," as amended, which requires appropriate officials of the executive branch of the Federal Government to issue rules, regulations, and directives to implement the regulations of the Office of Personnel Management for the enforcement of legal obligations to provide child support or make alimony payments incurred by employees of the executive branch (online at www.archives.gov/federal_register/codification/executive_order/12105.html).
- h. Executive Order 12897, "Garnishment of Federal Employees' Pay," which designates the Office of Personnel Management to promulgate regulations for the implementation of 5 U.S.C. 5520a (Garnishment of Pay) for civilian employees and Agencies in the executive branch (online at www.archives.gov/federal_register/executive_orders/pdf/12897.pdf).

10. DEFINITIONS.

- a. Alimony.
 - (1) Legal obligation to provide periodic payment of funds for the support and maintenance of a spouse (or former spouse) subject to and in accordance with State law, to include—

- (a) separate maintenance,
 - (b) alimony pendente lite (an allowance made pending a suit for divorce or separate maintenance, including a reasonable allowance for preparation of the suit as well as for support), and
 - (c) maintenance and spousal support.
 - (2) Alimony may include attorney fees, interest, and court costs when and to the extent that those funds are expressly made recoverable pursuant to a court decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.
 - (3) Alimony does not include child support or payment or transfer of property or its value in compliance with a community property settlement, equitable distribution of property, or other division of property between spouses and former spouses.
- b. Child Support. Amounts required under a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or administrative agency of competent jurisdiction to be paid for the support and maintenance of a child.
- (1) May include a child who has reached the age of majority under the law of the issuing state or a child and the parent with whom the child is living.
 - (2) Support and maintenance may include monetary support, health care, arrearages, or reimbursement payments and may include other related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.
- c. Designated Agent. A DOE employee who is authorized to receive legal process from a court or administrative agency of competent jurisdiction, identify the named employee obligor, and withhold moneys from the pay of an employee and make the payment of the withholding to a garnishor as necessary to comply with the legal process.
- d. Garnishee. A person against whom process of garnishment is issued.
- e. Garnishment. Any legal or equitable procedure where employee pay is required to be withheld for the payment of a debt.
- f. Garnishor. A person on whose behalf the process of garnishment is issued and proper service of legal process is performed.

- g. Interrogatories. Written questions to be submitted to a party, witness, or other persons having information of interest in the case.
- h. Legal Obligation. A court-ordered requirement to pay alimony and/or child support that is enforceable under State or local law. A legal obligation may include current as well as past due alimony and/or child support debts depending on the law in the jurisdiction from which the legal process was issued.
- i. Legal Process. A writ, order, summons, or notice to withhold income pursuant to 42 U.S.C. 666(a)(1) or (b) or 5 U.S.C. 5520a. The process may include an attachment, writ of execution, court-ordered wage assignment, tax levy from a State or local government, or child support agency's submission using the standard order/notice to withhold income for child support.
 - (1) As required by section 324 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193), the legal process is issued by—
 - (a) a court or administrative agency of competent jurisdiction (including Indian tribal courts) in a State, territory, or possession of the United States, or the District of Columbia;
 - (b) a court of competent jurisdiction in any foreign country with which the United States has entered into an agreement that requires the United States to honor such process; an authorized official pursuant to an order of a court or administrative agency of competent jurisdiction or pursuant to State or local law; or
 - (c) a State agency authorized to issue income withholding notices pursuant to State or local law or pursuant to the requirements of 42 U.S.C. 666(b).
 - (2) The legal process directs a governmental entity to withhold moneys from the pay of an employee and to make the payment of the withholding to a garnishor in order to enforce the employee's legal obligation to pay a specifically described debt or to provide child support, alimony, or both.
- j. Legal Process Regular on Its Face. A process, legal in form, from a court, an officer, or any body having authority of law to issue such a process, and that contains nothing to notify or fairly apprise anyone that it is issued without authority.
- k. Employee Obligor. An individual who has a legal obligation to pay alimony, child support, or a commercial debt.

- l. Remuneration for Employment/Employee Pay. Compensation paid or payable to an employee for personal services, whether it is called wages, salary, commission, or bonus pay and includes but is not limited to items listed in 5 CFR 581.103 (Child Support and/or Alimony) or 5 CFR 582.103 (Commercial Garnishment).
 - m. Service. The process of serving a writ or summons.
11. CONTACT. Questions should be directed to the Office of Financial Policy, 202-586-4860.

BY ORDER OF THE SECRETARY OF ENERGY:



KYLE E. McSLARROW
Deputy Secretary

**PRIMARY DEPARTMENT OF ENERGY ORGANIZATIONS
TO WHICH DOE O 323.1 IS APPLICABLE**

Office of the Secretary
Chief Information Officer
Departmental Representative to the Defense Nuclear Facilities Safety Board
Energy Information Administration
National Nuclear Security Administration
Office of Civilian Radioactive Waste Management
Office of Congressional and Intergovernmental Affairs
Office of Counterintelligence
Office of Economic Impact and Diversity
Office of Electric Transmission and Distribution
Office of Energy Assurance
Office of Energy Efficiency and Renewable Energy
Office of Environment, Safety and Health
Office of Environmental Management
Office of Fossil Energy
Office of General Counsel
Office of Hearings and Appeals
Office of Independent Oversight and Performance Assurance
Office of Intelligence
Office of Legacy Management
Office of Management, Budget and Evaluation and Chief Financial Officer
Office of Nuclear Energy, Science and Technology
Office of Policy and International Affairs
Office of Public Affairs
Office of Science
Office of Security
Office of Security and Safety Performance Assurance
Office of the Inspector General
Secretary of Energy Advisory Board
Bonneville Power Administration
Southeastern Power Administration
Southwestern Power Administration
Western Area Power Administration