



OFFICE OF THE
GENERAL COUNSEL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 6, 2001

MEMORANDUM TO: Diane Dandois, Chief
License Fee and Accounts Receivable Branch
Division of Accounting and Finance

FROM: Robin Baum *Robin Baum*
Senior Attorney

SUBJECT: REVIEW OF PROPOSED NOTICE OF RULEMAKING
10 CFR Part 15; Debt Collection Procedures

OGC has reviewed the subject document per your request and we have the following comments as noted below.

1. Section 15.25, "Personal Interviews," (pages 8 & 25) is proposed for deletion. Although Section 15.33, "Collection by Administrative Offset" provides details on page 34 for an oral hearing when a debtor requests reconsideration of a debt, the personal interview process affords a step to both the agency and the debtor at an earlier stage of the process for either clarification of the debt or explanation of the debtor's circumstances, if necessary. We suggest that this language for such optional procedure be retained.
2. Section 15.27, "Contact with the Debtor's Employing Agency," (pages 9 & 26) is proposed for deletion. This section provides that if the debtor is employed by the federal government, collection by offset is accomplished under 5 U.S.C. 5514 and the provisions of 10 CFR Part 16. Neither authority has been changed by the Debt Collection Improvement Act (DCIA) of 1996; we suggest that Section 15.27 be retained.
3. The proposed rule proposes deletion from Section 15.45 (pages 11 & 38), the restriction concerning acceptance of a percentage of a debtor's profits or stock in a debtor corporation in compromise of a claim. We suggest the proposed rule give a brief explanation as to why this restriction is proposed for removal from Section 15.45, e.g., provide reference to the Federal Claims Collection Standards which now allows acceptance of these items.
4. On page 7, the last six words on the page "and to delete reference to GAO" should be removed with the sentence ending after "... the DCIA of 1996." Section 15.20 does not exist presently; accordingly, there is no reference to GAO to be deleted.
5. On pages 9 and 27, the language "immediately suspends a license," is of concern. Our understanding is that there must be a showing of good cause or emergency in order to suspend a license. This section should be explained in more detail or a specific citation should be provided to the "NRC practice" involved.

6. Also on pages 9 and 27, the words "NRC will seek legal advice" is unclear. The Office of General Counsel provides advice to NRC staff/management. This statement should be clarified. Moreover, on page 37, references to "agency counsel" and "legal counsel" should be changed to "Office of General Counsel."

7. For certain pages, the word "agency" or "agencies" should be replaced by NRC since this is an NRC proposed rule. The applicable pages are pages 12-13 (Section 15.60), pages 23-24 (Section 15.20 [f], Section 15.21[a][7]), pages 41-42 (Section 15.53 [e][1][2],[f]; Section 15.55 [b]), and page 44 (Section 1560 [a]).

8. On page 46, Section 1567 (f)(2), "referring agency" is unclear. This sentence should clarify if "referring agency" means NRC or another federal agency.

9. The text of Sections 15.33 (d) (1) and (e) on pages 32-33 does not refer to NRC specific rules or requirements. The statements are very general in nature and should be tailored to reference NRC as opposed to "an agency", "creditor agency", or "creditor agencies".

10. The text on page 34 refers to debtor review and oral hearing. We suggest the text make reference to 10 CFR 16.9, which discusses hearing requests and procedures. This will eliminate any confusion concerning the type of hearing (the text does not contemplate a 10 C.F.R. Part 2 licensing hearing).

11. There are a few citation errors. On page 13, this first reference in the document to the acronym CCLR [Claims Collection Litigation Report] should be spelled out. On page 17, second sentence, the reference "section 5 of Title 5" is incorrect. There is no section 5 to Title 5 United States Code. The correct cite should be either "**chapter 5** of Title 5" or **Section 553** [Rulemaking] of Title 5," whichever cite was intended as either could be correct. Also in the second sentence on page 17, "Sates" is a misspelling; revise to "States." On page 18, paragraph 1, the final citation line contains an incorrect year and should be revised to read: "(3 CFR, 1996 Comp., pp. 157-163). In addition, on page 31, line 12, the correct citation is **31 CFR Sec. 901.2**."

If you have any questions concerning this Memorandum, please contact me at 415-2202.