March 1, 2002

Charlotte/Diane

Would you review the final rule for any changes. I intend to send this directly for concurrence since there were no changes to substance from the proposed rule because no comments were received. Generally, I have been sending proposed rules to RDB and OGC for pre-reviews before I send out for concurrence.

Leah

[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 15

RIN 3150-AG80

Debt Collection Procedures

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations concerning the procedures used to collect debts that are owed to NRC. These amendments ~~amendment~~ will conform NRC regulations to the legislative changes enacted in the Debt Collection Improvement Act of 1996 (DCIA) and the amended procedures presented in the Federal Claims Collection Standards (FCCS) issued by the Department of the Treasury (Treasury) and the Department of Justice (DOJ). This final action is intended to allow the NRC to improve its collection of debts due the United States.

EFFECTIVE DATE: (Insert 30 days after publication in the Federal Register).

FOR FURTHER INFORMATION CONTACT: Leah Tremper, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, 11545 Rockville Pike, Rockville, MD 20852-2738, Telephone 301-415-7347.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comments on Proposed Rule
III. Section by Section Analysis
IV. Plain Language
V. Voluntary Consensus Standards
VI. Finding of No Significant Environmental Impact
VII. Paperwork Reduction Act
VIII. Regulatory Analysis
IX. Regulatory Flexibility Certification
X. Backfit Analysis

I. Background

On August 9, 1990 (55 FR 32375), the Nuclear Regulatory Commission (NRC) published a final rule concerning debt collection procedures. Since then, the DCIA Act (DCIA) of 1996 (Pub. L. 104-134), was enacted on April 26, 1996. This Act enhances debt collection Government-wide. The purposes of this Act are--

(1) To maximize collections of delinquent debts owed to the Government by ensuring quick action to enforce recovery of debts and the use of all appropriate collection tools,

(2) To minimize the costs of debt collection by consolidating related functions and activities and utilizing interagency teams,

(3) To reduce losses arising from debt management activities by requiring proper screening of potential borrowers, aggressive monitoring of all accounts, and sharing of information within and among Federal agencies,

(4) To ensure that the public is fully informed of the Federal Government's debt collection policies and that debtors are cognizant of their obligations to repay amounts owed to the Federal government,

(5) To ensure that debtors have all appropriate due process rights, including the ability to verify, challenge, and compromise claims, and access to administrative appeals procedures which are both reasonable and protect the interests of the United States.

(6) To encourage agencies, when appropriate, to sell delinquent debt, particularly debts with underlying collateral, and

(7) To rely on the experience and expertise of private sector professionals to provide debt collection services to Federal agencies.

This Act provides that any nontax debt or claim owed to the United States that has been delinquent for a period of 180 days shall be referred to the Treasury or Treasury-designated collection center for appropriate action to collect or terminate collection action on the debt or claim. The DCIA of 1996 has expanded the collection tools available through administrative offset.

One of the most significant provisions of the DCIA of 1996 is the requirement that most agency debt over 180 days delinquent be referred to the Department of the Treasury for collection. The DCIA of 1996 provides Treasury with new collection tools, including the authority to offset any Federal agency's payment to a vendor to satisfy that vendor's debt to a different Federal agency. This capability can improve our collection efforts as follows:

(1) It limits the amount of time spent on trying to collect from delinquent debtors by referring a debt to Treasury when it becomes 180 days delinquent;

(2) It provides a powerful collection tool, offset of Federal payments, that is otherwise unavailable to NRC; and

(3) It puts the debt in the hands of a professional staff that is dedicated to handling collections.

The FCCS (31 CFR Chapter IX and parts 900, 901, 902, 903, and 904) were revised on November 22, 2000 (65 FR 70390). The revised FCCS clarify and simplify Federal debt collection procedures and reflect changes under the DCIA of 1996 and the General Accounting Office Act of 1996. The revised FCCS reflect legislative changes to Federal debt collection procedures enacted under the DCIA of 1996 (DCIA), Pub. L. 104-134, 110 Stat. 1321-358, as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996. The revised FCCS provide agencies with greater latitude to adopt agency-specific regulations, tailored to the legal and policy requirements applicable to the various types of Federal debt, to maximize the effectiveness of Federal debt collection procedures. The Secretary of the Treasury has been added as a co-promulgator of the FCCS in accordance with section 31001(g)(1)(C) of the DCIA of 1996. The Comptroller General has been removed as a co-promulgator in accordance with section 115(g) of the General Accounting Office Act of 1996, Pub. L. 104-316, 110 Stat. 3826 (October 19, 1996), (65 Fed. Reg. 70390 (2000)). The Department of the Treasury and DOJ have published the revised FCCS as a joint final rule under new Chapter IX, Title 31, Code of Federal Regulations. The revised FCCS supersede the current FCCS codified at 4 CFR parts 101-105.

The revised FCCS prescribe standards for Federal agency use in the administrative collection, offset, compromise, and the suspension or termination of collection activity for civil claims for money, funds, or property, as defined by 31 U.S.C. 3701(b), unless specific Federal agency statutes or regulations apply to such activities, or as provided for by Title 11 of the

United States Code when the claims involve bankruptcy. The revised FCCS also prescribe standards for referring debts to the Department of Justice for litigation.

II. Comments on Proposed Rule

On October 5, 2001 (68 FR 50860), the NRC published a proposed rule to amend its debt collections procedures to conform NRC regulations to the legislative changes enacted in the DCIA of 1996 and the revised FCCS. The comment period expired on December 19, 2001. No comments were received on the proposed rule.

III. Section by Section Analysis

Section 15.1 Application.

The DCIA of 1996 requires all Federal agencies to refer delinquent debt that is over 180 days old to Treasury for offset and collection. This section is amended to reflect that the NRC is not limited to collection remedies contained in the revised FCCS, and eliminate the GAO's role as co-promulgator of the FCCS.

Section 15.2 Definitions.

This section is amended to expand the definition of "claim or debt" to conform with the DCIA of 1996. Other definitions such as "administrative wage garnishment," "cross-servicing," "Federal agencies," "recoupment," "tax refund offset," "Treasury," and "withholding order" have been added to conform to the definitions in the DCIA of 1996.

Section 15.5 Claims that are covered.

This section is amended to include reference to Executive Order 12146, which references interagency resolution of disputes, to exclude specifically from coverage a claim under the Internal Revenue Code of 1986, and to add claims that involve bankruptcy are covered by Title 11 of the United States Code.

Section 15.7 Monetary limitation on NRC's authority.

This section is amended to increase NRC's authority to compromise a claim or to terminate or suspend collection action on a claim covered by these procedures to $100,000 to reflect the ceiling change established by 31 U.S.C. 3711(a)(2) and to delete reference to the GAO.

Section 15.8 Information Collection Requirements: OMB approval.

This section is added to state that this part contains no information collection requirements and is not subject to the requirements of the Paperwork Reduction Act.

Section 15.9 No private rights created.

This section is amended to change the section heading from "Omission not a defense" to "No private rights created" and delete the reference to 4 CFR part 101-105 and substitute the reference to 31 CFR Chapter IX, parts 900-904.

Section 15.11 Form of payment.

This section is amended to change the section heading from "Conversion claims" to "Form of payment" and allow claims to be paid in money or property, if contractually authorized.

Section 15.20 Aggressive agency collection action.

This section would be added to include DCIA debt collection provisions for referral of delinquent debt to Treasury for cross-servicing, and mandate cooperation among Federal agencies as required by the DCIA of 1996.

Section 15.21 Written demand for payment.

This section is amended to change the number of demand letters to be sent for each debt from three to two. The revised FCCS allows agencies latitude to adopt agency-specific regulations and this change in the number of demand letters reflects the latitude allowed. In addition, the noticing requirements is amended to include the name, address and phone number of an NRC contact for each demand letter, to delete the reference to 4 CFR 102.13 and 102.5 and to substitute the reference to 31 CFR Chapter IX part 901.9 and 901.4, and to add procedures to follow when a bankruptcy petition is filed by a debtor. The DCIA of 1996 allows agencies greater latitude to adopt agency specific regulations and the change in the number of demand letters reflects the latitude allowed.

Section 15.23 Telephone or internet inquiries and investigations.

This section is amended to include the use of the internet as a means of contacting a debtor.

Section 15.26 Reporting claims.

The section heading is changed from "Use of consumer reporting agencies" to "Reporting claims." This section is amended to include the due process notification to the individual debtor with the second demand letter, and delete the requirement for sending at least one demand letter by registered or certified mail.

Section 15.29 Suspension or revocation of license.

This section is amended in its entirety to:

(1) State that the suspension or revocation of a license, permit, or approval is also applicable to Federal programs or activities that are administered by the states on behalf of the Federal government; and

(2) Include that NRC will seek legal advice from its Office of the General Counsel for those debts that involve bankruptcy before suspending or revoking a license.

Section 15.32 Contracting for collection services.

This section is amended to include that NRC may contract for collection services in order to recover delinquent debts if the debts are not subject to the DCIA requirement to transfer debts to Treasury for debt collection services and delete the reference to 4 CFR 102.6 and substitute the reference to 31 CFR Chapter IX, part 901.5.

Section 15.33 Collection by administrative offset.

This section is amended in its entirety to include several new debt collection procedures under the DCIA of 1996, including but not limited to--

(1) Transfer or referral of delinquent debt to the Department of the Treasury or Treasury-designated debt collection center for collection, known as "cross-servicing;"

(2) Centralized administrative offset by disbursing officials;

(3) Credit bureau reporting; and

(4) Prohibition against extending Federal financial assistance in the form of a loan or loan guarantee to delinquent debtors.

Included in this section are NRC administrative offset procedures to be followed prior to initiating centralized and non-centralized offsets.

Section 15.35 Payments.

This section is amended to delete confess-judgment notes, delete how payments are to be applied when there are multiple debts, include credit cards as a payment method, and change the address where payments are to be sent.

Section 15.37 Interest, penalties, and administrative charges.

This section is amended to delete reference to 4 CFR 102.2 and 102.13 and substitute the reference to 31 CFR Chapter IX, part 901.2 and 901.9 and add that NRC is authorized to impose interest and related charges on debts not subject to 31 U.S.C. 3717, in accordance with common law.

Section 15.39 Bankruptcy claims.

This section would be added to include procedures the NRC would follow when notified that a debtor has filed for bankruptcy protection.

Section 15.41 When a claim may be compromised.

This section is amended to delete reference to the GAO, clarify that the FCCS applies to debt referred to Treasury for collection (cross-servicing), and include procedures for referring claims that exceed $100,000 to the DOJ for acceptance of the compromise offer.

Section 15.43 Reasons for compromising a claim.

This section is amended to delete reference to 4 CFR 103 and 103.4 and substitute the reference to 31 CFR Chapter IX, part 902 and 902.2.

Section 15.45 Consideration of tax consequences to the Government.

This section heading would be changed from "Restrictions on the compromise of a claim" to "Consideration of tax consequences to the Government." This section is amended to allow acceptance of a percentage of a debtor's profits or stock in a debtor corporation in compromise of a claim and reword the remainder of the section.

Section 15.49 Mutual release of the debtor and the Government.

This section would be added to include the requirement that compromises be implemented by means of mutual release, when appropriate.

Section 15.51 When collection action may be suspended or terminated.

This section is amended to include procedures for suspending or terminating collection action on claims over $100,000 and to eliminate GAO's debt collection role.

Section 15.53 Reasons for suspending collection action.

This section is amended to prescribe factors to consider when determining that collection action should be suspended, and when collection activity should be suspended pending waiver or administrative review, and to include consideration of the impact of the Bankruptcy Code in bankruptcy cases.

Section 15.55 Reasons for terminating collection action.

This section is amended to combine paragraphs (a) through (c) and add that NRC may terminate collection activity on a debt that has been discharged in bankruptcy.

Section 15.57 Termination of collection action.

This section is amended to add that termination does not preclude retention of debt record for purposes of selling the debt, pursuing collection at a subsequent date, offsetting against future income or assets, and screening future applicants for prior indebtedness; and add that collection activity may be terminated for debts that have been discharged in bankruptcy.

Section 15.60 Discharge of indebtedness; reporting requirements.

This section would be added to require the NRC to take all appropriate collection actions and make a determination that further collection action is not warranted before making a determination to discharge a debt, provide that the NRC may not discharge a debt until the requirements of 31 U.S.C. 3711(i) (sale of debt) have been met, and provide that the NRC will report discharge of debt to the IRS on Form 1099-C.

Section 15.61 Prompt referral.

This section is amended to include revised procedures for referring debts that are over $1,000,000 to the DOJ for litigation, include requirements that the NRC refrain from debtor contact after referral to DOJ, and add provisions that DOJ shall notify the NRC of any payments received from the debtor.

Section 15.65 Referral of a compromise offer.

This section is amended to delete reference to the GAO and include the requirement that a written offer of compromise that is substantial in amount be referred to DOJ using a Claims Collection Litigation Report (CCLR) accompanied by supporting data and particulars concerning the debt.

Section 15.67 Referral to the Department of Justice.

This section is amended to add the requirement that certified copies of documents be forwarded to DOJ with litigation referrals, increase the minimum amount of claims to be referred to DOJ to $2,500, and add exception for claims being referred solely to secure a judgment for lien filing purposes.

IV. Plain language

The Presidential Memorandum dated June 1, 1998, entitled "Plain Language in Government Writing" directed that the Government's writing be in plain language. This memorandum was published on June 10, 1998 (63 FR 31885). The NRC requests comments on this proposed rule specifically with respect to the clarity and effectiveness of the language

used. Comments should be sent to the address listed under the **ADDRESSES** caption of the preamble.

V. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104-113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless using such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC is amending Part 15 to reflect the current requirements of the revised DCIA of 1996 and the revised FCCS. This action does not constitute the establishment of a standard that contains generally applicable requirements.

VI. Finding of No Significant Environmental Impact

The Commission has determined, under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. This proposed rule is necessary to conform the NRC regulations to the amended procedures presented in the revised FCCS. Amending the procedures that the NRC uses to collect debts which are owed to it will not have any radiological environmental impact offsite and no impact on occupational radiation exposure onsite. The rule does not affect nonradiological plant effluents and has no other environmental impact. The environmental assessment and finding of no significant

impact, on which this determination is based, are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm except on Federal holidays.

VII. Paperwork Reduction Act

This proposed rule contains no information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

VIII. Regulatory Analysis

The proposed rule will conform NRC procedures for collecting debts owed it with the amended procedures presented in the FCCS and the DCIA of 1996, and, as such, will not have a significant impact on state and local governments and geographical regions; health, safety, and the environment; nor will it represent substantial costs to licensees, the NRC, or other Federal agencies. This constitutes the regulatory analysis for this proposed rule.

IX. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis has not been prepared. Interest and late payment charges imposed on a small entity will ordinarily not

exceed $100 per year. This rule affects small entities billed for byproduct materials inspection fees, byproduct materials licensing fees, and materials annual fees established under 10 CFR 170.31, Category 3, and 10 CFR 171.16, Category 3, and for Freedom of Information Act processing costs. The NRC issues approximately 1,100 billings annually to small entities including physicians in private practice, small hospitals, universities, small consulting firms, public interest groups, and other entities involved with radiography and research. The total annual billing to any one small entity is $2,300 per fee category. Past experience shows that 97-98% of billings are paid within 90 days after the billing date. The late payment charges imposed for a small entity that pays the debt of $2,300, 90 days after the billing date, will be $84.12 assuming a Treasury annual interest rate of 6%, penalty at 6%, and administrative charges at $5 per month.

The rule allows a small entity to pay a debt on an installment basis if it is unable to pay a debt in full prior to the due date (ordinarily 30 days after the billing date). This arrangement requires the payment of interest on the unpaid debt and the administrative charge for each month the installment is in effect. The annual interest charges imposed on a small entity will be less than $140 assuming a maximum billing of $2,300 paid in 12 monthly installments at an annual interest rate of 6% and $60 in administrative charges.

X. Backfit Analysis

The NRC has determined that the backfit rule does not apply to this proposed rule; therefore, a backfit analysis is not required for this proposed rule because these amendments are mandated by the DCIA of 1996 (Public Law 104-134, 110 Stat. 1321-358 (April 26, 1996)).

List of Subjects in 10 CFR Part 15

Administrative practice and procedures, debt collection

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 15.

PART 15 -- DEBT COLLECTION PROCEDURES

1. The authority citation for Part 15 is revised to read as follows:

AUTHORITY: Secs. 161, 186, 68 Stat. 948, 955, as amended (42 U.S.C. 2201, 2236); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 1, Pub. L. 97-258, 96 Stat. 972 (31 U.S.C. 3713); sec 5, Pub. L. 89-508, 80 Stat. 308, as amended (31 U.S.C. 3716); Pub. L. 97-365, 96 Stat. 1749 (31 U.S.C. 3719); Federal Claims Collection Standards, 31 CFR Chapter IX, parts 900-904; 31 U.S.C. Secs. 3701, 3716; 31 CFR Sec 285; 26 U.S.C. Sec 6402(d); 31 U.S.C. Sec. 3720A; 26 U.S.C. Sec. 6402(c); 42 U.S.C. Sec. 664; Pub. L. 104-134, as amended (31 U.S.C. 3713); 5 U.S.C. 5514; Executive Order 12146 (3 CFR 1980 Comp. pp. 409-412); Executive Order 12988 (3 CFR, 1996 Comp., pp. 157-163).

2. In §15.1 paragraphs (a)(1) and (a)(3) are revised and paragraph (c) is added to read as follows:

§ 15.1 Application.

(a) * * *

(1) Collects, compromises, suspends, offsets, and terminates collection action for claims:

* * * * *

(3) Refers unpaid claims over 180 days delinquent to Treasury for offset and collection and to the DOJ for litigation.

* * * * *

(c) The NRC is not limited to collection remedies contained in the revised FCCS (FCCS). The FCCS is not intended to impair common law remedies.

3. In §15.2, the definition of Claim and debt is revised, and the definitions of Administrative wage garnishment, Cross-servicing, Federal agencies, Recoupment, Tax refund, Treasury, and Withholding order, are added in alphabetical order to read as follows:

§15.2 Definitions.

* * * * *

Administrative wage garnishment is the process of withholding amounts from an employee's disposable pay and the paying of those amounts to a creditor in satisfaction of a withholding order.

Claim and debt are used synonymously to refer to an amount of money, funds, or property that has been determined by an agency official to be owed to the United States from any person, organization, or entity, except another Federal agency. For the purposes of administrative offset under 31 U.S.C. 3716, the terms claim and debt include an amount of money, funds, or property owed by a person to a State (including past-due support being enforced by a State), the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico.

Cross-servicing means that the Department of the Treasury or another debt collection center is taking appropriate debt collection action on behalf of one or more Federal agencies or a unit or subagency thereof.

* * * * *

Federal agencies include agencies of the executive, legislative, and judicial branches of the Government, including Government corporations.

* * * * *

Recoupment is a special method for adjusting debts arising under the same transaction or occurrence. For example, obligations arising under the same contract generally are subject to recoupment.

* * * * *

Tax refund offset means withholding or reducing a tax refund payment by an amount necessary to satisfy a debt owed by the payee(s) of a tax refund payment.

Treasury as used in 10 CFR Part 15 means the Department of the Treasury.

Withholding order means any order for withholding or garnishment of pay issued by an agency, or judicial or administrative body.

4. In §15.5, paragraphs (b)(4) and (b)(5) are revised and (b)(7) is added to read as follows:

§ 15.5 Claims that are covered.

* * * * *

(b) * * *

(4) A claim under the Internal Revenue Code of 1986.

(5) A claim between Federal agencies. Federal agencies should attempt to resolve interagency claims as referenced in Executive Order 12146 (3 CFR, 1980 Comp., pp. 409-412).

* * * * *

(7) A claim involving bankruptcy is covered by Title 11 of the United States Code.

5. In §15.7, paragraphs (a) and (b) are revised to read as follows:

§15.7 Monetary limitation on NRC's authority.

* * * * *

(a) Have not been referred to another Federal Agency for further collection actions; and

(b) Do not exceed $100,000 (exclusive of interest, penalties, and administrative charges) or such higher amount as the Attorney General shall from time to time prescribe for purposes of compromise or suspension or termination of collection activity.

6. Section 15.8 is added to read as follows:

§15.8 Information Collection Requirements: OMB approval.

This part contains no information collection requirements, and therefore, is not subject to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

7. Section 15.9 is amended by revising the section heading and paragraph (a) to read as follows:

§15.9 No private rights created.

(a) The failure of NRC to include in this part any provision of the FCCS, 31 CFR Chapter IX, parts 900-904, does not prevent the NRC from applying these provisions.

* * * * *

8. Section 15.11 is amended by revising the section heading and paragraphs (a) and (b) to read as follows:

§15.11 Form of payment.

* * * * *

(a) The return of specific property; or

(b) The performance of specific services.

9. Section §15.20 is added under Subpart B to read as follows:

§15.20 Aggressive agency collection activity.

(a) The NRC shall take aggressive action to collect all debts. These collection activities will be undertaken promptly and follow-up action will be taken as appropriate. These regulations do not require the Department of Justice (DOJ), the Department of the Treasury (Treasury), or any other Treasury-designated collection center to duplicate collection activities previously undertaken by NRC.

(b) Debt referred or transferred to Treasury or to a Treasury-designated debt collection center under the authority of 31 U.S.C. 3711(g) must be serviced, collected, or compromised, or the collection action will be suspended or terminated, in accordance with the statutory requirements and authorities applicable to the collection of the debts.

(c) The NRC shall cooperate with other agencies in their debt collection activities.

(d) The NRC will consider referring debts that are less than 180 days delinquent to Treasury or to a Treasury-designated debt collection center to accomplish efficient, cost-effective debt collection. Referrals to debt collection centers are at the discretion of, and for a time period acceptable to, Treasury.

(e) The NRC shall transfer any debt that has been delinquent for 180 days or more to Treasury so that it may take appropriate action to collect the debt or terminate collection actions. This requirement does not apply to any debt that--

(1) Is in litigation or foreclosure;

(2) Will be disposed of under an approved asset sale program;

(3) Has been referred to a private collection contractor for a period of time acceptable to Treasury;

(4) Is at a debt collection center for a period of time acceptable to Treasury;

(5) Will be collected under internal offset procedures within 3 years after the date the debt first became delinquent; or

(6) Is exempt from this requirement based on a determination by Treasury that exemption for a certain class of debt is in the best interest of the United States.

(f) Agencies operating Treasury-designated debt collection centers are authorized to charge a fee for services rendered regarding referred or transferred debts. The fee may be paid out of amounts collected and may be added to the debt as an administrative cost.

10. In §15.21 paragraphs (a)(5), (a)(6), the introductory text of paragraph (b), paragraphs (b)(3)(ii), (b)(3)(iii), and (b)(3)(vi) are revised and paragraphs (a)(7) and (e) are added to read as follows:

§15.21 Written demands for payment.

(a) * * *

(5) The applicable standards for assessing interest, penalties, and administrative costs under 31 CFR Chapter IX, 901.9;

(6) The applicable policy for reporting the delinquent debt to consumer reporting agencies; and

(7) The name, address, and phone number of a contact person or office within the NRC willl be included with each demand letter.

(b) The NRC shall normally send two demand letters to debtors. The initial demand letter will be followed approximately 30 days later with a second demand letter, unless circumstances indicate that alternative remedies better protect the Government's interest, that the debtor has explicitly refused to pay, or that sending a further demand letter is futile. Depending upon the circumstances, the first and second demand letters may--

* * * * *

(3) * * *

(ii) The NRC may report debts to credit bureaus, refer debts to debt collection centers and collection agencies for cross-servicing (including wage garnishment), tax refund offset, administrative offset, and litigation. Any eligible debt that is delinquent for 180 days or more will be transferred to the Department of the Treasury for collection. Credit bureau reporting for transferred debts will be handled by Treasury or a Treasury-designated center.

(iii) Possible reporting of the delinquent debt to consumer reporting agencies in accordance with the guidance and standards contained in 31 CFR Chapter IX, part 901.4.

* * * * *

(vi) The right to refer the claim to DOJ for litigation.

* * * * *

(e) When the NRC learns that a bankruptcy petition has been filed with respect to a debtor, the NRC will cease collection action immediately unless it has been determined that under 11 U.S.C. 362, the automatic stay has been lifted or is no longer in effect.

11. In §15.23, paragraph (a) is revised to read as follows:

§15.23 Telephone or internet inquiries and investigations.

(a) If a debtor has not responded to one or more demands, the NRC shall make reasonable efforts by telephone or internet to determine the debtor's intentions.

* * * * *

12. Section 15.26 is amended by revising the section heading and paragraph (a)(2), removing paragraph (a)(3), and redesignating paragraphs (a)(4) and (a)(5) as (a)(3) and (a)(4).

§15.26 Reporting claims.

(a) * * *

(2) The NRC has included a notification in the second written demand (see §15.21(b)) to the individual debtor stating--

(i) That the payment of the debt is delinquent;

(ii) That within not less than 60 days after the date of the notification, the NRC intends to disclose to a consumer reporting agency that the individual debtor is responsible for the debt;

(iii) The specific information to be disclosed to the consumer reporting agency; and

(iv) That the debtor has a right to a complete explanation of the debt (if that has not already been given), to dispute information in NRC records about the debt, and to request reconsideration of the debt by administrative appeal or review of the debt.

(3) The NRC has reconsidered its initial decision on the debt when the debtor has requested a review under §15.26(a)(2)(iv).

(4) The NRC has taken reasonable action to locate a debtor for whom the NRC does not have a current address to send the notification provided for in paragraph (a)(2) of this section.

* * * * *

13. Section 15.29 is revised to read as follows:

§15.29 Suspension or revocation of license.

In non-bankruptcy cases, the NRC may suspend or revoke any license, permit, or approval which the NRC has granted to the debtor for any inexcusable, prolonged, or repeated failure of the debtor to pay a delinquent debt. Before suspending or revoking any license, permit, or approval for failure to pay a debt, the NRC shall issue to the debtor (by certified mail) an order or a demand for information as to why the license, permit, or approval should not be suspended or revoked. The NRC shall allow the debtor no more than 30 days to pay the debt in full, including applicable interest, penalties, and administrative costs of collection of the delinquent debt. The NRC may revoke the license, permit, or approval at the end of this period. If a license is revoked under authority of this part, a new application, with appropriate fees, must be made to the NRC. The NRC may not consider an application unless all previous delinquent debts of the debtor to the NRC have been paid in full. The suspension or

revocation of a license, permit, or approval is also applicable to Federal programs or activities that are administered by the states on behalf of the Federal government to the extent that they affect the Federal government's ability to collect money or funds owed by debtors. In bankruptcy cases, before advising the debtor of NRC's intention to suspend or revoke licenses, permits, or approvals, the NRC will seek legal advice from its Office of the General Counsel concerning the impact of the Bankruptcy Code which may restrict such action.

14. Section 15.32 is revised to read as follows:

§15.32 Contracting for collection services.

The NRC may contract for collection services in order to recover delinquent debts only if the debts are not subject to the DCIA requirement to transfer debts to Treasury for debt collection services, e.g. debts that are less than 180 days delinquent. However, the NRC retains the authority to resolve disputes, compromise claims, suspend or terminate collection action, and initiate enforced collection through litigation. When appropriate, the NRC shall contract for collection services in accordance with the guidance and standards contained in 31 CFR Chapter IX, parts 900-904.

15. Section 15.33 is revised to read as follows:

§ 15.33 Collection by administrative offset.

(a) Application.

(1) The NRC may administratively undertake collection by centralized offset on each claim which is liquidated or certain in amount in accordance with the guidance and standards in 31 CFR Chapter IX, parts 900-904 and 5 U.S.C. 5514.

(2)This section does not apply to:

(i) Debts arising under the Social Security Act, except as provided in 42 U.S.C. 404;

(ii) Payments made under the Social Security Act, except as provided for in 31 U.S.C. 3716(c) (see 31 CFR 285.4, Federal Benefit Offset);

(iii) Debts arising under, or payments made under, the Internal Revenue Code (see 31 CFR 285.2, Tax Refund Offset) or the tariff laws of the United States;

(iv) Offsets against Federal salaries to the extent these standards are inconsistent with regulations published to implement such offsets under 5 U.S.C. 5514 and 31 U.S.C. 3716 (see 5 CFR part 550, subpart K, and 31 CFR 285.7, Federal Salary Offset);

(v) Offsets under 31 U.S.C. 3728 against a judgment obtained by a debtor against the United States;

(vi) Offsets or recoupments under common law, State law, or Federal statutes specifically prohibiting offsets or recoupments of particular types of debts; or

(vii) Offsets in the course of judicial proceedings, including bankruptcy.

(3) Unless otherwise provided for by contract or law, debts or payments that are not subject to administrative offset under 31 U.S.C. 3716 may be collected by administrative offset under the common law or their applicable statutory authority.

(4) Unless otherwise provided by law, the NRC may not initiate administrative offset of payments under the authority of 31 U.S.C. 3716 to collect a debt more than 10 years after the Government's right to collect the debt first accrued, unless facts material to the Government's right to collect the debt were not known and could not reasonably have been known to the

NRC, or collection of "approval" fees has been deferred under 10 CFR part 170. If the collection of "approval" fees has been deferred, the ten-year period begins to run at the end of the deferral period.

(5) In bankruptcy cases, the NRC will seek legal advice from its Office of the General Counsel concerning the impact of the Bankruptcy Code on pending or contemplated collections by offset.

(b) Mandatory centralized offset.

(1) The NRC is required to refer past due, legally enforceable, nontax debts that are over 180 days delinquent to Treasury for collection by centralized administrative offset. A debt is legally enforceable if there has been a final NRC determination that the debt, in the amount stated, is due and there are no legal bars to collection action. Debts that are less than 180 days delinquent also may be referred to Treasury for this purpose.

(2) The names and taxpayer identifying numbers (TINs) of debtors who owe debts referred to Treasury as described in paragraph(b)(1) of this section must be compared to the names and TINs on payments to be made by Federal disbursing officials. Federal disbursing officials include disbursing officials of Treasury, the Department of Defense, the United States Postal Service, other Government corporations, and disbursing officials of the United States designated by Treasury. When the name and TIN of a debtor match the name and TIN of a payee and all other requirements for offset have been met, the payment will be offset to satisfy the debt.

(3) Federal disbursing officials will notify the debtor/payee in writing that an offset has occurred to satisfy, in part or in full, a past due, legally enforceable delinquent debt. The notice must include a description of the type and amount of the payment from which the offset was taken, the amount of offset that was taken, the identity of the creditor agency (NRC)

requesting the offset, and a contact point within NRC who will respond to questions regarding the offset

(c) NRC administrative offset.

(1) Before referring a delinquent debt to Treasury for administrative offset, the NRC adopts the following administrative offset procedures:

(i) Offsets may be initiated only after the debtor--

(A) Has been sent written notice of the type and amount of the debt, the intention of the NRC to use administrative offset to collect the debt, and an explanation of the debtor's rights under 31 U.S.C. 3716; and

(ii) The debtor has been given--

(A) The opportunity to inspect and copy NRC records related to the debt;

(B) The opportunity for a review within the NRC of the determination of indebtedness; and

(C) The opportunity to make a written agreement to repay the debt.

(iii) The procedures set forth in paragraph (c)(1)(i) of this section may be omitted when--

(A) The offset is in the nature of a recoupment;

(B) The debt arises under a contract as set forth in *Cecile Industries, Inc. v. Cheney*, 995 F.2d 1052 (Fed. Cir. 1993) (notice and other procedural protections set forth in 31 U.S.C. 3716(a) do not supplant or restrict established procedures for contractual offsets accommodated by the Contracts Disputes Act); or

(C) The NRC first learns of the existence of the amount owed by the debtor when there is insufficient time before payment would be made to the debtor/payee to allow for prior notice and an opportunity for review. This applies to non-centralized offsets conducted under paragraph (d) of this section. When prior notice and an opportunity for review are omitted, the

NRC shall give the debtor notice and an opportunity for review as soon as practicable and shall refund any money ultimately found not to have been owed to the NRC.

(iv) When an agency previously has given a debtor any of the required notice and review opportunities with respect to a particular debt (10 CFR Chapter IX, part 901.2), the NRC need not duplicate the notice and review opportunities before administrative offset may be initiated.

(2) When referring delinquent debts to Treasury, the NRC shall certify, in a form acceptable to Treasury, that:

(i) The debt is past due and legally enforceable; and

(ii) The NRC has complied with all due process requirements under 31 U.S.C. 3716(a) and the NRC's regulations.

(3) Payments that are prohibited by law from being offset are exempt from centralized administrative offset. The Treasury shall exempt payments under means-tested programs from centralized administrative offset when requested in writing by the head of the payment-certifying or authorizing agency. Also, the Treasury may exempt other classes of payments from centralized offset upon the written request of the head of the payment-certifying or authorizing agency.

(4) Benefit payments made under the Social Security Act (42 U.S.C. 301 et seq.), part B of the Black Lung Benefits Act (30 U.S.C. 921 et seq.), and any law administered by the Railroad Retirement Board (other than tier 2 benefits), may be offset only in accordance with Treasury regulations, issued in consultation with the Social Security Administration, the Railroad Retirement Board, and the Office of Management and Budget (31 CFR 285.4).

(5) In accordance with 31 U.S.C. 3716(f), the Treasury may waive the provisions of the Computer Matching and Privacy Protection Act of 1988 concerning matching agreements and

post-match notification and verification (5 U.S.C. 552a(o) and (p)) for centralized administrative offset upon receipt of a certification from the NRC that the due process requirements enumerated in 31 U.S.C. 3716(a) have been met. The certification of a debt in accordance with paragraph (b)(5) of this section will satisfy this requirement. If a waiver is granted, only the Data Integrity Board of the Department of the Treasury is required to oversee any matching activities, in accordance with 31 U.S.C. 3716(g). This waiver authority does not apply to offsets conducted under paragraphs (c) and (d) of this section.

(d) Non-centralized administrative offset.

(1) Generally, non-centralized administrative offsets are ad hoc case-by-case offsets that NRC would conduct, at its discretion, internally or in cooperation with the agency certifying or authorizing payments to the debtor. Unless otherwise prohibited by law, when centralized administrative offset is not available or appropriate, past due, legally enforceable, nontax delinquent debts may be collected through non-centralized administrative offset. In these cases, the NRC may make a request directly to a payment-authorizing agency to offset a payment due a debtor to collect a delinquent debt. For example, the NRC will request the Office of Personnel Management (OPM) to offset a Federal employee's lump sum payment upon leaving Government service to satisfy an unpaid advance.

(2) Before requesting Treasury to conduct a non-centralized administrative offset, the NRC adopts the following procedures, which provide that such offsets may occur only after:

(i) The debtor has been provided due process as set forth in paragraph (c)(1) of this section; and

(ii) The Treasury has received written certification from NRC that the debtor owes the past due, legally enforceable delinquent debt in the amount stated, and that the NRC has fully complied with its regulations concerning administrative offset.

(3) Treasury shall comply with offset requests by NRC to collect debts owed to the United States, unless the offset would not be in the best interests of the United States with respect to the Treasury's program, or would otherwise be contrary to law. Appropriate use should be made of the cooperative efforts of other agencies in effecting collection by administrative offset.

(4) When collecting multiple debts by non-centralized administrative offset, the NRC will apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, particularly the applicable statute of limitations.

(e) Requests to OPM to offset a debtor's anticipated or future benefit payment under the Civil Service Retirement and Disability Fund. Upon providing OPM written certification that a debtor has been afforded the procedures provided in paragraph (c)(1) of this section, the NRC will request OPM to offset a debtor's anticipated or future benefit payments under the Civil Service Retirement and Disability Fund (Fund) in accordance with regulations codified at 5 CFR 831.1801-831.1808. Upon receipt of such a request, OPM will identify and "flag" a debtor's account in anticipation of the time when the debtor requests, or becomes eligible to receive, payments from the Fund. This will satisfy any requirement that offset be initiated prior to the expiration of the time limitations referenced in paragraph (a)(4) of this section.

(f) Review requirements.

(1) For purposes of this section, whenever the NRC is required to afford a debtor a review within the agency, the NRC shall provide the debtor with a reasonable opportunity for an oral hearing in accordance with 10 CFR 16.9, when the debtor requests reconsideration of the debt, and the NRC determines that the question of the indebtedness cannot be resolved

by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity.

(2) Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary hearing, although the NRC should carefully document all significant matters discussed at the hearing.

(3) This section does not require an oral hearing with respect to debt collection systems in which a determination of indebtedness rarely involves issues of credibility or veracity, and the NRC has determined that review of the written record is ordinarily an adequate means to correct prior mistakes.

(4) In those cases in which an oral hearing is not required by this section, the NRC shall accord the debtor a "paper hearing," that is, a determination of the request for reconsideration based upon a review of the written record.

16. In §15.35, paragraph (b) and the introductory text of paragraph (c) are revised to read as follows:

§ 15.35 Payments.

* * * * *

(b) *Payment by installment.* If a debtor furnishes satisfactory evidence of inability to pay a claim in one lump sum, payment in regular installments may be arranged. Evidence may consist of a financial statement or a signed statement that the debtor's application for a loan to enable the debtor to pay the claim in full was rejected. Except for a claim described in 5 U.S.C. 5514 and codified in 10 CFR part 16, all installment payment arrangements must be in writing and require the payment of interest and administrative charges.

(1) Installment note forms may be used. The written installment agreement must contain a provision accelerating the debt payment in the event the debtor defaults. If the debtor's financial statement discloses the ownership of assets which are free and clear of liens or security interests, or assets in which the debtor owns an equity, the debtor may be asked to secure the payment of an installment note by executing a Security Agreement and Financing Statement transferring to the United States a security interest in the asset until the debt is discharged.

(2) If the debtor owes more than one debt, the NRC will apply the payment to the various debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case.

(c) *To whom payment is made.* Payment of a debt is made by check, electronic transfer, draft, credit card, or money order and should be payable to the United States Nuclear Regulatory Commission, License Fee and Accounts Receivable Branch, P.O. Box 954514, St. Louis, MO. 63195-4514, unless payment is --

(1) Made pursuant to arrangements with DOJ;

* * * * * *

17. In §15.37, paragraphs (a) and (b) are revised and paragraph (l) is added to read as follows:

§15.37 Interest, penalties, and administrative costs.

(a) The NRC shall assess interest, penalties, and administrative costs on debts owed to the United States Government in accordance with the guidance provided under the FCCS, 31 CFR Chapter IX, part 901.9.

(b) Before assessing any charges on delinquent debt, the NRC shall mail or hand-deliver a written notice to the debtor explaining its requirements concerning these charges under 31 CFR Chapter IX, part 901.2 and 901.9, except where these charges are included in a contractual or repayment agreement.

* * * * *

(l) The NRC is authorized to impose interest and related charges on debts not subject to 31 U.S.C. 3717, in accordance with common law.

18. Section 15.39 is revised to read as follows:

§15.39 Bankruptcy claims.

When the NRC learns that a bankruptcy petition has been filed with respect to a debtor, before proceeding with further collection action, the NRC will immediately seek legal advice from its Office of the General Counsel concerning the impact of the Bankruptcy Code on any pending or contemplated collection activities. Unless the NRC determines that the automatic stay imposed at the time of filing pursuant to 11 U.S.C. 362 has been lifted or is no longer in effect, collection activity against the debtor will in most cases stop immediately.

(a) After seeking legal advice from its Office of the General Counsel, a proof of claim usually will be filed with the bankruptcy court or the Trustee.

(b) If the NRC is a secured creditor, it may seek relief from the automatic stay regarding its security, subject to the provisions and requirements of 11 U.S.C. 362.

(c) Offset is stayed in most cases by the automatic stay. However, the NRC will seek legal advice from its Office of the General Counsel to determine whether its payments to the debtor and payments of other agencies available for offset may be frozen by the agency until

relief from the automatic stay can be obtained from the bankruptcy court. The NRC will seek legal advice from its Office of the General Counsel to determine if recoupment is available.

19. Section 15.41 is revised to read as follows:

§15.41 When a claim may be compromised.

(a) The NRC may compromise a claim not in excess of the monetary limitation if it has not been referred to DOJ for litigation.

(b) Unless otherwise provided by law, when the principal balance of a debt, exclusive of interest, penalties, and administrative costs, exceeds $100,000 or any higher amount authorized by the Attorney General, the authority to accept the compromise rests with the DOJ. The NRC will evaluate the compromise offer, using the factors set forth in this part. If an offer to compromise any debt in excess of $100,000 is acceptable to the NRC, the NRC shall refer the debt to the Civil Division or other appropriate litigating division in the DOJ using a CCLR. The referral must include appropriate financial information and a recommendation for the acceptance of the compromise offer. Justice Department approval is not required if the compromise offer is rejected by NRC.

20. In §15.43, paragraphs (c) and (d) are revised to read as follows:

§ 15.43 Reasons for compromising a claim.

* * * * *

(c) The cost of collecting the claim does not justify the enforced collection of the full amount. The NRC shall apply this reason for compromise in accordance with the guidance in 31 CFR Chapter IX, part 902.2.

(d) The NRC shall determine the debtor's inability to pay, the Government's ability to enforce collection, and the amounts that are acceptable in compromise in accordance with the FCCS, 31 CFR Chapter IX, part 902.

* * * * *

21. Section 15.45 is revised to read as follows:

§15.45 Consideration of tax consequences to the Government.

(a) The NRC may accept a percentage of a debtor's profits or stock in a debtor corporation in compromise of a claim. In negotiating a compromise with a business concern, the NRC should consider requiring a waiver of tax-loss-carry-forward and tax-loss-carry-back rights of the debtor. For information on reporting requirements, see §15.60.

(b) When two or more debtors are jointly and severally liable, the NRC will pursue collection activity against all debtors, as appropriate. The NRC will not attempt to allocate the burden of payment between the debtors but will proceed to liquidate the indebtedness as quickly as possible. The NRC will ensure that a compromise agreement with one debtor does not release the NRC's claim against the remaining debtors. The amount of a compromise with one debtor shall not be considered a precedent or binding in determining the amount that will be required from other debtors jointly and severally liable on the claim.

22. Section 15.49 is added to read as follows:

§15.49 Mutual releases of the debtor and the Government.

(a) In all appropriate instances, a compromise that is accepted by NRC should be implemented by means of a mutual release.

(1) The debtor is released from further non-tax liability on the compromised debt in consideration of payment in full of the compromise amount.

(2) The Government and its officials, past and present, are released and discharged from any and all claims and causes of action arising from the same transaction held by the debtor.

(b) If a mutual release is not executed when a debt is compromised, unless prohibited by law, the debtor is still deemed to have waived any and all claims and causes of action against the Government and its officials related to the transaction giving rise to the compromised debt.

23. Section 15.51 is revised to read as follows:

§15.51 When collection action may be suspended or terminated.

The NRC may suspend or terminate collection action on a claim not in excess of the monetary limitation of $100,000 or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs, after deducting the amount of partial payments or collections, if any of the debt has not been referred to the DOJ for litigation. If, after deducting the amount of any partial payments or collections, the principal amount of a debt exceeds $100,000, or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs, the authority to suspend or terminate rests solely with the DOJ. If the NRC believes that suspension or termination of any debt in excess of

$100,000 may be appropriate, the NRC shall refer the debt to the Civil Division or other appropriate litigating division in the DOJ, using the CCLR. The referral should specify the reasons for the NRC's recommendation. If, prior to referral to the DOJ, the NRC determines that a debt is plainly erroneous or clearly without legal merit, the NRC may terminate collection activity, regardless of the amount involved, without obtaining DOJ concurrence.

24. Section15.53 is revised to read as follows:

§15.53 Reasons for suspending collection action.

The NRC may suspend collection activity when:

(a) The NRC cannot locate the debtor;

(b) The debtor's financial condition is not expected to improve; or

(c) The debtor has requested a waiver or review of the debt.

(d) Based on the current financial condition of the debtor, the NRC may suspend collection activity on a debt when the debtor's future prospects justify retention of the debt for periodic review and collection activity and:

(1) The applicable statute of limitations has not expired; or

(2) Future collection can be effected by administrative offset, notwithstanding the expiration of the applicable statute of limitations for litigation of claims, with due regard to the 10-year limitation for administrative offset prescribed by 31 U.S.C. 3716(e)(1); or

(3) The debtor agrees to pay interest on the amount of the debt on which collection will be suspended, and such suspension is likely to enhance the debtor's ability to pay the full amount of the principal of the debt with interest at a later date.

(e)(1) The NRC shall suspend collection activity during the time required for consideration of the debtor's request for waiver or administrative review of the debt, if the statute under which the request is sought prohibits the NRC from collecting the debt during that time.

(2) If the statute under which the request is sought does not prohibit collection activity pending consideration of the request, the NRC may use discretion, on a case-by-case basis, to suspend collection. Further, the NRC ordinarily should suspend collection action upon a request for waiver or review, if the NRC is prohibited by statute or regulation from issuing a refund of amounts collected prior to NRC consideration of the debtor's request. However, the NRC should not suspend collection when the NRC determines that the request for waiver or review is frivolous or was made primarily to delay collection.

(f) When the NRC learns that a bankruptcy petition has been filed with respect to a debtor, in most cases, the collection activity on a debt must be suspended, pursuant to the provisions of 11 U.S.C. 362, 1201, and 1301, unless the NRC can clearly establish that the automatic stay has been lifted or is no longer in effect. The NRC should seek legal advice immediately from its Office of the General Counsel and, if legally permitted, take the necessary steps to ensure that no funds or money are paid by the NRC to the debtor until relief from the automatic stay is obtained.

25. Section 15.55 is revised to read as follows:

§15.55 Reasons for terminating collection action.

The NRC may terminate collection activity when:

(a) The NRC is unable to collect any substantial amount through its own efforts or through the efforts of others;

(b) The NRC is unable to locate the debtor;

(c) Costs of collection are anticipated to exceed the amount recoverable,

(d) The debt is legally without merit or enforcement of the debt is barred by any applicable statute of limitations;

(e) The debt cannot be substantiated; or

(f) The debt against the debtor has been discharged in bankruptcy.

26. Section 15.57 is revised to read as follows:

§15.57 Termination of collection action.

(a) Before terminating collection activity, the NRC should have pursued all appropriate means of collection and determined, based upon the results of the collection activity, that the debt is uncollectible. Termination of collection activity ceases active collection of the debt. The termination of collection activity does not preclude the NRC from retaining a record of the account for purposes of:

(1) Selling the debt, if the Treasury determines that such sale is in the best interests of the United States;

(2) Pursuing collection at a subsequent date in the event there is a change in the debtor's status or a new collection tool becomes available;

(3) Offsetting against future income or assets not available at the time of termination of collection activity; or

(4) Screening future applicants for prior indebtedness.

(b) Generally, the NRC will terminate collection activity on a debt that has been discharged in bankruptcy, regardless of the amount. However, the NRC may continue collection activity, subject to the provisions of the Bankruptcy Code, for any payments provided under a plan of reorganization.

27. Section 15.59 and the section heading are revised to read as follows:

§15.59 Exception to termination.

When a significant enforcement policy is involved, or recovery of a judgment is a prerequisite to the imposition of administrative sanctions, the NRC may refer debts for litigation, although termination of collection activity may be appropriate.

28. Section 15.60 is added to read as follows:

§15.60 Discharge of indebtedness; reporting requirements.

(a) Before discharging a delinquent debt (also referred to as a close out of the debt), the NRC shall take all appropriate steps to collect the debt in accordance with 31 U.S.C. 3711(g), including, as applicable, administrative offset; tax refund offset; Federal salary offset; referral to Treasury, Treasury-designated debt collection centers, or private collection contractors; credit bureau reporting; wage garnishment; litigation; and foreclosure. Discharge of indebtedness is distinct from termination or suspension of collection activity under §15.55 and §15.57 and is governed by the Internal Revenue Code. When collection action on a debt is suspended or terminated, the debt remains delinquent, and further collection action may be pursued at a later date. When the NRC discharges a debt in full or in part, further collection action is prohibited.

Therefore, the NRC will make the determination that collection action is no longer warranted before discharging a debt. Before discharging a debt, the NRC must terminate debt collection action.

(b) Section 3711(i), title 31, United States Code, requires agencies to sell a delinquent nontax debt upon termination of collection action if Treasury determines such a sale is in the best interests of the United States. Since the discharge of a debt precludes any further collection action (including the sale of a delinquent debt), the NRC may not discharge a debt until the requirements of 31 U.S.C. 3711(i) have been met.

(c) Upon discharge of an indebtedness, the NRC shall report the discharge to the IRS in accordance with the requirements of 26 U.S.C. 6050P and 26 CFR 1.6050P-1. The NRC may request Treasury or a Treasury-designated debt collection center to file a discharge report to the IRS on the NRC's behalf.

(d) When discharging a debt, the NRC shall request that litigation counsel release any liens of record securing the debt.

29. Section 15.61 is revised to read as follows:

§ 15.61 Prompt referral.

(a) The NRC shall promptly refer debts that are subject to aggressive collection activity (as described in Subpart B of 10 CFR part 15) and that cannot be compromised, or debts on which collection activity cannot be suspended or terminated, to DOJ for litigation. Debts for which the principal amount exceeds $1,000,000, or such other amount as the Attorney General may direct, exclusive of interest and penalties, must be referred to the Civil Division or other division responsible for litigating such debts at DOJ, Washington, D.C. Debts for which the

principal amount is $1,000,000 or less, or such other amount as the Attorney General may direct, exclusive of interest or penalties, must be referred to the Department of Justice's Nationwide Central Intake Facility, as required by the CCLR instructions. Debts will be referred as early as possible, consistent with the NRC's aggressive collection activity and well within the one year of the NRC's final determination of the fact and the amount of the debt.

(b) DOJ has exclusive jurisdiction over the debts referred to in paragraph (a) of this section. The NRC shall terminate the use of any administrative collection activities to collect a debt when the debt is referred to DOJ. The NRC shall advise the DOJ of the collection activities it used and the results. The NRC shall refrain from having any contact with the debtor and shall direct all inquiries to DOJ. The NRC shall immediately notify DOJ of any payments credited to the debtor's account after the account has been referred to DOJ. DOJ shall notify NRC in a timely manner of any payments it receives from the debtor.

30. Section 15.65 is revised to read as follows:

§15.65 Referral of a compromise offer.

The NRC may refer a debtor's firm written offer of compromise, which is substantial in amount, to the Civil Division or other appropriate litigating division in DOJ using a CCLR accompanied by supporting data and particulars concerning the debt.

31. Section 15.67 is revised to read as follows:

.§ 15.67 Referral to the Department of Justice.

(a) Unless excepted by DOJ, the NRC shall complete the CCLR accompanied by a Certificate of Indebtedness, to refer all administratively uncollectible claims to the DOJ for litigation.

(b) The NRC shall indicate the actions it wishes DOJ to take regarding the referred claim on the CCLR.

(c) Before referring a debt to DOJ for litigation, the NRC shall notify each person determined to be liable for the debt that, unless the debt can be collected administratively, litigation may be initiated. This notification must comply with Executive Order 12988 (3 CFR, 1996 Comp., pp 157-163) and may be given as part of a demand letter or as a separate document.

(d) The NRC shall preserve all files and records that DOJ may need to prove the claim in court.

(e) The NRC may ordinarily not refer for litigation claims of less than $2,500, exclusive of interest, penalties, and administrative charges, or such other amount as the Attorney General shall from time to time prescribe.

(f) The NRC may not refer claims of less than the minimum amount unless:

(1) Litigation to collect a smaller claim is important to ensure compliance with NRC's policies and programs;

(2) The claim is being referred solely to secure a judgment against the debtor, which will be filed as a lien against the debtor's property under 28 U.S.C.3201 and returned to the NRC for enforcement, or

(3) The debtor has the clear ability to pay the claim, and the Government effectively can enforce payment, with due regard for the exemptions available to the debtor under state and Federal law and the judicial remedies available to the Government.

Dated at Rockville, Maryland, this _____day of _____ 2002.

For the Nuclear Regulatory Commission

_____

Jesse L. Funches
Chief Financial Officer

(3) The debtor has the clear ability to pay the claim, and the Government effectively can enforce payment, with due regard for the exemptions available to the debtor under state and Federal law and the judicial remedies available to the Government.

Dated at Rockville, Maryland, this _____day of _____ 2002.

For the Nuclear Regulatory Commission

_____
Jesse L. Funches
Chief Financial Officer

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