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NUCLEAR REGULATORY COMMISSION

10 CFR Part 15

RIN 3150-AC87

Debt Collection Procedures

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations concerning the procedures that the NRC uses to collect the debts which are owed to it. The amendment is necessary to conform NRC regulations to the amended procedures contained in the Federal Claims Collection Standards issued by the General Accounting Office (GAO) and the Department of Justice (DOJ). This action is intended to allow the NRC to further improve its collection of debts due the United States.

EFFECTIVE DATE: September 10, 1990.

FOR FURTHER INFORMATION CONTACT: Diane B. Dandois, Chief, License Fee and Debt Collection Branch, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-7225.

SUPPLEMENTARY INFORMATION: On February 22, 1982 (47 FR 7615), the NRC published a final rule concerning debt collection procedures. Since then, the Debt Collection Act of 1982 (Pub. L. 97-365) was enacted on October 25, 1982, which revised the Federal Claims Collection Act of 1966 (31 U.S.C. 3701 *et seq.*). On March 9, 1984 (49 FR 8889), GAO and DOJ issued a final rule amending the Federal Claims Collection Standards as set out in 4 CFR parts 101-105. On October 7, 1988 (53 FR 39480), the NRC published a proposed rule based on the requirements contained in the Federal Claims Collection Standards. The public was invited to submit written comments on the proposed rule by November 21, 1988, and no comments were received.

The revision to 10 CFR part 15 establishes procedures for the NRC to collect, compromise, or terminate collection action on claims owed to the United States Government arising from activities under NRC jurisdiction. The revision implements the Federal Claims Collection Act as amended by the Debt Collection Act and supplements the amendments to the Federal Claims Collection Standards. This revision, however, does not implement the salary offset provisions of the Debt Collection Act. Those provisions will be implemented through the establishment of 10 CFR part 16 which is currently under development by the Commission.

In addition this rulemaking does not address the collection of civil penalties under 10 CFR 2.205. NRC is considering a separate rulemaking action to specify those provisions of 10 CFR part 15 which apply to civil penalties assessed by NRC under 10 CFR 2.205.

Section by Section Analysis

Section 15.1 Application

This section is revised to make it clear that part 15 prescribes NRC procedures for collecting, compromising, terminating, and referring claims to GAO and DOJ, and to conform to Public Law 99-224.

Paragraph (b)(1) is modified to conform to the provisions of Public Law 99-224, dated December 28, 1985, which amended 5 U.S.C. 5584, 10 U.S.C. 2774 and 32 U.S.C. 716 by authorizing waivers of erroneous payments of travel, transportation and relocation expenses, and allowances.

A new paragraph (b)(2) is added to indicate that civil monetary penalties imposed under 10 CFR 2.205 are subject to special statutory and administrative procedures.

Section 15.2 Definitions

This new section is added to provide definitions for the terms "administrative offset," "claim and debt," "delinquent," "license," and "payment in full" as they are used in this part and 4 CFR parts 101-105.

Section 15.3 Communications

This section is revised by correcting the Commission's address for communications concerning the regulations in 10 CFR part 15.

Section 15.5 Claims that are Covered

This section is revised to note that the provisions of 10 CFR part 15 which apply to civil penalties shall be specified in 10 CFR 2.205, to note that the provisions of 10 CFR part 15 do not apply either to claims between Federal agencies, or to claims once they become subject to the salary offset provisions of 5 U.S.C. 5514, and to explicitly provide that fees imposed under 10 CFR parts 170 and 171 are covered.

Section 15.7 Monetary Limitations on NRC's Authority

The statutory citation in this section is corrected to read 31 U.S.C. 3711(b). Paragraph (b) is modified to include "penalties, and administrative costs" with the exclusion of interest from the $20,000 limitation on the NRC's compromise authority.

Section 15.9 Omissions Not a Defense

This section is modified to include the citation for the Federal Claims Collection Standards.

Section 15.13 Subdivision of Claims

A cross reference to the statutory and regulatory authority for this section is added.

Section 15.21 Written Demands for Payment

Paragraph (a)(1) is modified to include notice to the debtors of their right to seek review within the Agency. Paragraph (a)(4) is modified to indicate the date of mailing or hand delivery as the date on which payment is to be made under normal circumstances, consistent with 4 CFR part 102. Paragraph (a)(5) is modified to include penalties and administrative costs of collection in the demand for payment.

Minor editorial changes are made to paragraph (b), including the addition of possible reporting of delinquent debts to consumer reporting agencies.

Section 15.25 Personal Interviews

This section is modified to make personal interviews discretionary on the part of the NRC under paragraph (a) while maintaining a requirement to grant an interview to the debtor, if requested, under paragraph (b).

Section 15.26 Use of Consumer Reporting Agencies

A new section is added to provide for the reporting of delinquent debts to consumer reporting agencies, notifying debtors of these actions, reporting debt status changes to debtors, and limiting the information which the NRC may provide to consumer reporting agencies.

Section 15.29 Suspension or Revocation of License

This section is modified to correspond more closely to the terminology used in 4 CFR parts 101-105.

Section 15.31 Disputed Debts

This section is modified to correspond more closely to the terminology used in 4 CFR parts 101-105.

Section 15.32 Contracting for Collection Services

This new section is added to provide for NRC action to collect a debt by means of a commercial collection agency, as authorized by 4 CFR 102.6.

With the inclusion of this new section, § 15.63 is removed from subpart E of this part.

Section 15.33 Collection by Administrative Offset

This section is modified to disclose the 10 year limitation on the NRC's authority to initiate an administrative offset. If the payment of fees to the NRC is deferred, the ten years will run from the end of the deferral period or any other period the NRC subsequently establishes.

Paragraphs (b) and (c) of this section are changed to make it consistent with the provisions in 4 CFR 102.2, 102.3, and 102.4, and 5 U.S.C. 5514. Provisions are added to establish the debtor's procedural rights, to provide for seeking offset from other Government agencies when they have funds due the debtor, to provide for NRC acceptance of a repayment agreement in lieu of an offset, and to establish other limitations on the use of administrative offset in the collection of debts owed the NRC.

Section 15.35 Payments

Language is added to this section to clarify that charges for interest, penalties, and administrative costs will be assessed on delinquent payments paid in full in one lump sum. In addition, language is added to explain how an installment agreement will be instituted and applied to a debt. The significant additions are a provision for accelerated payment in the event the debtor defaults on an installment agreement and an indication that the NRC will comply with the debtor's instructions in the application of payments when more than one debt is involved. If the debtor does not, however, designate the application of payments, the NRC will apply the payments in the best interest of the United States.

Section 15.37 Interest, Penalties, and Administrative Costs

This section is changed substantially by revising its title and adding the following new paragraphs:

Paragraph (e) provides that the interest rate on a debt will remain fixed except under specified circumstances.

Paragraph (f) provides that the NRC will assess against the debtor the costs of administratively handling a delinquent debt.

Paragraph (g) codifies the current NRC practice of assessing a penalty charge in the amount of 6 percent per annum on a debt that is delinquent for more than 90 days. This charge accrues from the date that the debt became delinquent. Thus, both interest and penalties are calculated from the same initial date.

Paragraph (h) provides that payments will be applied first to outstanding penalty and administrative charges, then to interest, and finally to the principal.

Paragraph (i) codifies current NRC practice of waiving interest for debts paid within 30 days of the due date.

Paragraph (j) codifies current NRC practice of waiving interest during the period a disputed debt is under investigation.

Paragraph (k) codifies other circumstances under which interest, penalties, and administrative costs may be waived.

Section 15.38 Use of Credit Reports

A new section is added to allow NRC to institute a credit investigation of a debtor in order to make appropriate determinations regarding the collection of a claim.

Section 15.41 When a Claim May Be Compromised

The opening sentence of this section is changed for clarification purposes only.

Section 15.43 Reasons for Compromising a Claim

This section is modified to bring it into conformity with 4 CFR part 103. Paragraph (c) is changed to indicate that collection costs will be expended in accordance with 4 CFR 103.4 rather than as currently stated. Paragraph (d) is divided to set out separately in a new paragraph (e) the requirement for an enforceable agreement of installment payments under a compromise of a claim.

Section 15.45 Restrictions on the Compromise of a Claim

The opening sentence of this section is changed for clarification purposes only.

Section 15.51 When Collection Action May Be Suspended or Terminated

This section is modified to indicate the exclusion of interest, penalties, and administrative costs from the monetary limitation on when the NRC may suspend or terminate collection action.

Section 15.61 Prompt Referral

Paragraph (a) is modified to delete the reference to a private collection agency which is now to be addressed in the new § 15.32 discussed above. A one-year referral requirement is codified for NRC action after final determination of the fact and the amount owed to the NRC.

A new paragraph (b) is added to provide for NRC referral to GAO of questions concerning acceptance of a proposed compromise, suspension, or termination of collection actions in order to obtain GAO's advice on the matter in question. The current paragraph (b) is redesignated as paragraph (c).

A new paragraph (d) is added to reflect the fact that once a referral has been made to GAO or DOJ, the NRC will refrain from any contact with the debtor and will immediately advise GAO or DOJ of any payments made by the debtor.

Section 15.63 Referral of a Claim to Private Agencies for Collection

This section is deleted both because of the new § 15.32 which addresses these actions, and because these collection actions are not a referral in the truest sense, but rather reflect a different form of collection action by the NRC using other means.

Section 15.67 Referral to the Department of Justice

A new paragraph (a) is added to indicate the threshold for determining to whom the NRC will refer a claim for enforced collection, i.e., DOJ or the appropriate U.S. Attorney. The current paragraphs (a) and (b) are redesignated as paragraphs (b) and (c), respectively.

A new paragraph (d) is added to indicate that the NRC must make its referrals in accordance with the guidance in 4 CFR 105.2, and that pertinent evidence will be preserved.

Finding of No Significant Environmental Impact: Availability

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 is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental statement is not required. Amending the procedures that the NRC uses to collect debts will have no radiological environmental impact offsite and no impact on occupational radiation exposure onsite. The amendment 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, 2120 L Street, NW. (Lower Level) Washington, DC.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Regulatory Analysis

This final rule will bring NRC debt collection procedures into conformance with current statutory and regulatory guidance and requirements and, therefore, does not have significant impact on state and local governments and geographical regions, health, safety, and the environment; nor does it represent substantial costs to licensees, the NRC, or other Federal agencies. This constitutes the regulatory analysis for this rule.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. Any impact on a small entity which might occur will result solely from the acts or omissions of the small entity concerned because of its failure to pay a valid debt to the NRC. As a result, a regulatory flexibility analysis has not been prepared.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule, and therefore, that a backfit analysis is not required for this rule because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 15

Administrative practice and procedure, 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, the Federal Claims Collection Act of 1966, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting 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. 3, Pub. L. 89-508, 80 Stat. 308, as amended (31 U.S.C. 3711, 3717, 3718); 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. 3701-3719); Federal Claims Collection Standards, 4 CFR parts 101-105.

2. Section 15.1 is amended by revising paragraphs (a) and (b)(1), redesignating paragraph (b)(2) as paragraph (b)(3), and adding a new paragraph (b)(2) to read as follows:

§ 15.1 Application.

(a) This part applies to claims for the payment of debts owed to the United States Government in the form of money or property and; unless a different procedure is specified in a statute, regulation, or contract; prescribes procedures by which the NRC—

(1) Collects, compromises, suspends, and terminates collection actions for claims;

(2) Determines and collects interest and other charges on these claims; and

(3) Refers unpaid claims to the General Accounting Office (GAO) and the Department of Justice (DOJ) for litigation.

(b) * * *

(1) A claim against an employee for erroneous payment of pay and allowances subject to waiver under 5 U.S.C. 5584.

(2) A claim against an applicant for, or a holder or former holder of, an NRC license involving the payment of civil penalties imposed by the NRC under 10 CFR 2.205.

* * * * *

3. Section 15.2 is added to read as follows:

§ 15.2 Definitions.

Administrative offset means withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the United States Government.

Claim and *debt* are used synonymously and interchangeably for the purposes of this part. These terms refer to money or property which has been determined by an appropriate NRC official to be owed to the United States by any person, organization, or entity, except another Federal agency.

Delinquent. A debt is considered delinquent if it has not been paid by the date specified in the initial written demand for payment or applicable contractual agreement with the NRC unless other satisfactory payment arrangements have been made by that date. If the debtor fails to satisfy obligations under a payment agreement with the NRC after other payment arrangements have been made, the debt becomes a delinquent debt.

License means any license, permit, or other approval issued by the Commission.

Payment in full means payment of the total debt due the United States, including any interest, penalty, and administrative costs of collection assessed against the debtor.

4. Section 15.3 is revised to read as follows:

§ 15.3 Communications.

Unless otherwise specified, all communications concerning the regulations in this part should be addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington DC 20555, ATTN: Docketing and Service Branch. Communications may be delivered in person to the Commission's offices located at 11555 Rockville Pike, One White Flint North, Rockville, Maryland 20852.

5. Section 15.5 is amended by revising paragraphs (a)(1) and (b)(1), removing the word "and" following paragraph (b)(3), and by adding paragraphs (b)(5) and (b)(6) to read as follows:

§ 15.5 Claims that are covered.

(a) * * *

(1) Results from activities of the NRC, including fees imposed under part 170 and part 171; or

* * * * *

(b) * * *

(1) A claim based on a civil monetary penalty for violation of a licensing

requirement unless § 2.205 of this chapter provides otherwise;

* * * * *

(5) A claim between Federal agencies; and

(6) A claim once it becomes subject to salary offset which is governed by 5 U.S.C. 5514

6. In § 15.7, the introductory paragraph and (b) are revised to read as follows:

§ 15.7 Monetary limitation on NRC's authority.

The NRC's authority to compromise a claim, or to terminate or suspend collection action on a claim covered by these procedures, is limited by 31 U.S.C. 3711(a) to claims that --

* * * * *

(b) Do not exceed $20,000, exclusive of interest, penalties, and administrative costs (the monetary limitation).

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

§ 15.9 Omissions not a defense.

(a) The failure of the NRC to include in this part any provision of the Federal Claims Collection Standards, 4 CFR parts 101-105, does not prevent the NRC from applying these provisions.

* * * * *

8. Section 15.13 is revised to read as follows:

§ 15.13 Subdivision of claims.

The NRC shall consider a debtor's liability arising from a particular transaction or contract as a single claim in determining whether the claim is less than the monetary limitation for the purpose of compromising or suspending or terminating collection action. A claim may not be subdivided to avoid the monetary limitation established by 31 U.S.C. 3711(a)(2) and § 15.7.

9. The heading of subpart B is revised to read as follows:

Subpart B -- Administrative Collection of Claims

10. In § 15.21, paragraphs (b)(3)(iii), (iv), and (v) are redesignated as paragraphs (b)(3)(iv), (v), and (vi), respectively; paragraphs (a)(1), (a)(4), (a)(5), and (a)(6), the introductory text of paragraph (b), and paragraph (b)(2) are revised; and a new paragraph (b)(3)(iii) is added to read as follows:

§ 15.21 Written demands for payment.

(a) * * *

(1) The basis of the indebtedness and the right of the debtor to seek review within the NRC;

* * * * *

(4) The date on which payment is to be made (which is normally the date the initial written demand letter statement was mailed or hand delivered, unless otherwise specified by contractual agreement, established by Federal statute or regulation, or agreed to under a payment agreement);

(5) The applicable standards for assessing interest, penalties, and administrative costs under 4 CFR 102.13;

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

(b) Unless a debtor is a current NRC employee, the NRC shall normally send three progressively stronger written demands at not more than 30-day intervals, 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 is futile. Depending upon the circumstances of the particular case, the second and third demands may --

* * * * *

(2) State the amount of the interest and penalties that will be added on a daily basis as well as the administrative costs that will be added to the debt until the debt is paid; and

(3) * * *

(iii) Possible reporting of the delinquent debt to consumer reporting agencies in accordance with the guidance and standards contained in 4 CFR 102.5 and the NRC procedures set forth in § 15.26;

* * * * *

11. In § 15.25, the introductory text of paragraph (a) is revised to read as follows:

§ 15.25 Personal interviews.

(a) The NRC may seek an interview with the debtor at the offices of the NRC when --

* * * * *

12. A new § 15.26 is added to read as follows:

§ 15.26 Use of consumer reporting agencies.

(a) In addition to assessing interest, penalties, and administrative costs under § 15.37, the NRC may report a debt that has been delinquent for 90 days to a consumer reporting agency if all the conditions of this paragraph are met.

(1) The debtor has not --

(i) Paid or agreed to pay the debt under a written payment plan that has been signed by the debtor and agreed to by the NRC; or

(ii) Filed for review of the debt under § 15.26 (a)(2)(iv).

(2) The NRC has included a notification in the third 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 sent at least one written demand by either registered or certified mail with the notification described in paragraph (a)(2) of this section.

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

(5) 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.

(b) If there is a substantial change in the condition or amount of the debt, the NRC shall --

(1) Promptly disclose that fact(s) to each consumer reporting agency to which the original disclosure was made;

(2) Promptly verify or correct information about a debt on request of a consumer reporting agency for verification of information disclosed by the NRC; and,

(3) Obtain assurances from the consumer reporting agency that the agency is complying with all applicable Federal, state and local laws relating to its use of consumer credit information.

(c) The information the NRC discloses to the consumer reporting agency is limited to --

(1) Information necessary to establish the identity of the individual debtor, including name, address, and taxpayer identification number;

(2) The amount, status, and history of the debt; and

(3) The NRC activity under which the debt arose.

13. Section 15.29 is revised to read as follows:

§ 15.29 Suspension or revocation of license.

The NRC may suspend or revoke any license 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 or approval for failure to pay a debt, the NRC shall issue to the debtor an Order to Show Cause (by either registered or certified mail) why the license or other privilege 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 suspend or revoke the license 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.

14. In § 15.31, paragraphs (a) and (b) are revised to read as follows:

§ 15.31 Disputed debts.

(a) A debtor who disputes a debt shall explain why the debt is incorrect in fact or in law within 30 days from the date that the initial demand letter was mailed or hand-delivered. The debtor may support the explanation by affidavits, cancelled checks, or other relevant evidence.

(b) If the debtor's arguments appear to have merit, the NRC may extend the interest waiver period as described in § 15.37 (j) pending a final determination of the existence or amount of the debt.

* * * * *

15. Section 15.32 is added to read as follows:

§ 15.32 Contracting for collection services.

The NRC may contract for collection services in order to recover delinquent debts. 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 4 CFR 102.6.

16. In § 15.33, paragraphs (a), (b), and (c) are revised; paragraph (d) is redesignated as paragraph (e), and a new paragraph (d) is added to read as follows:

§ 15.33 Collection by administrative offset.

(a) The NRC may administratively undertake collection by offset on each claim which is liquidated or certain in amount in accordance with the guidance and standards contained in 4 CFR 102.2, 102.3, and 102.4 and 5 U.S.C. 5514, as applicable. The NRC may not initiate administrative offset to collect a debt more than 10 years after the Government's right to 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.

(b) Collection by administrative offset of amounts payable from the Civil Service Retirement and Disability Fund, the Federal Employees Retirement System or other similar funds is made pursuant to 4 CFR 102.4 and the provisions of paragraph (d) of this section.

(c) Salary offset is governed by 5 U.S.C. 5514.

(d) The following procedures apply when the NRC seeks to collect a debt by offset against any payment to be made to a debtor or against the assets of a licensee.

(1) Before the offset is made, the NRC shall provide the debtor with a written notice of the nature and amount of the debt and --

(i) Notice of the NRC's intent to collect the debt by offset;

(ii) An opportunity to inspect and copy NRC records pertaining to the debt;

(iii) An opportunity to request reconsideration of the debt by the NRC or, if provided for by statute, waiver of the debt;

(iv) An opportunity to enter into a written agreement with the NRC to repay or pay the debt, as the case may be;

(v) An explanation of the debtor's rights under this subpart; and

(vi) An opportunity for a hearing when required under the provisions of 4 CFR 102.3(c).

(2) If the NRC learns that other agencies of the Federal government are holding funds payable to the debtor, the NRC shall provide the other agencies with written certification that the debt is owed to the NRC and that the NRC has complied with the provisions of 4 CFR 102.3. The NRC shall request that funds due the debtor which are necessary to offset the debt to the NRC be transferred to the NRC.

(3) The NRC may accept a repayment or payment agreement, as appropriate, in lieu of offset, but will do so only after balancing the Government's interest in collecting the debt against fairness to the debtor. If the debt is delinquent and the debtor has not disputed its existence or amount, the NRC may accept a repayment or payment agreement in lieu of offset only if the debtor is able to establish under sworn affidavit that offset would result in undue financial hardship or would be against equity and good conscience.

(4) Administrative offset is not authorized with respect to --

(i) Debts owed by any State or local government;

(ii) Debts once they become subject to the salary offset provisions of 5 U.S.C. 5514; or

(iii) Any case in which collection of the type of debt involved by administrative offset is explicitly provided for or prohibited by another statute.

(5) The NRC reserves the right to take any other action in respect to offset as is permitted under 4 CFR 102.3.

* * * * *

17. Section 15.35 is amended by revising paragraphs (a) and (b) to read as follows:

§ 15.35 Payments.

(a) *Payment in full.* The NRC shall make every effort to collect a claim in full before it becomes delinquent. If a claim is paid in one lump sum after it becomes delinquent, the NRC shall impose charges for interest, penalties, and administrative costs as specified in § 15.37.

(b) *Payment in installments.* 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 at 5 U.S.C. 5514, all installment payment arrangements must be in writing and require the payment of interest, and administrative charges.

(1) Installment note forms, including confess-judgment notes, 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 assets until the debt is discharged.

(2) If the debtor owes more than one debt and designates how a voluntary installment payment is to be applied among those debts, the NRC shall follow that designation. If the debtor does not designate the application of the payment, the NRC shall 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.

* * * * *

18. Section 15.37 is revised 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 Federal Claims Collection Standards, 4 CFR 102.13 unless otherwise directed by statute, regulation, or contract.

(b) Before assessing any charges on delinquent debts, the NRC shall mail or hand-deliver a written notice to the debtor explaining its requirements concerning these charges under 4 CFR 102.2 and 102.13.

(c) Interest begins to accrue from the date on which the initial written demand, advising the debtor of the interest requirements, is first mailed or hand delivered to the debtor unless a different date is specified in a statute, regulation, or contract.

(d) The NRC shall assess interest based upon the rate of the current value of funds to the United States Treasury (the Treasury tax and loan account rate) prescribed for the current quarter and published in the **Federal Register** and the Treasury Financial Manual Bulletins, unless a different rate is prescribed by statute, regulation, or contract.

(e) Interest is computed only on the principal of the debt and the interest rate remains fixed for the duration of the indebtedness, unless a debtor defaults on a repayment agreement and seeks to enter into a new agreement.

(f) The NRC shall assess against a debtor charges to cover administrative costs incurred as a result of a delinquent debt. Administrative costs may include costs incurred in obtaining a credit report or in using a private debt collector, to the extent they are attributable to the delinquency.

(g) The NRC shall assess a penalty charge of 6 percent a year on any portion of a debt that is delinquent for more than 90 days. The charge accrues retroactively to the date that the debt became delinquent.

(h) Amounts received by the NRC as partial or installment payments are applied first to outstanding penalty and administrative cost charges, second to accrued interest, and third to outstanding principal.

(i) The NRC shall waive collection of interest on the debt or any portion of the debt which is paid in full within 30 days after the date on which interest began to accrue.

(j) The NRC may waive interest during the period a debt disputed under § 15.31 is under investigation or review by the NRC. However, this additional waiver is not automatic and must be requested before the expiration of the initial 30-day waiver period. The NRC may grant the additional waiver only when it finds merit in the explanation the debtor has submitted under § 15.31.

(k) The NRC may waive the collection of interest, penalties, and administrative costs if it finds that one or more of the following conditions exist:

(1) The debtor is unable to pay any significant sum toward the debt within a reasonable period of time;

(2) Collection of interest, penalties, and administrative costs will jeopardize collection of the principal of the debt;

(3) The NRC is unable to enforce collection in full within a reasonable time by enforced collection proceedings; or

(4) Collection would be against equity and good conscience or not in the best interests of the United States, including the situation in which an administrative offset or installment payment agreement is in effect.

19. Section 15.38 is added to read as follows:

§ 15.38 Use of credit reports.

The NRC may institute a credit investigation of the debtor at any time following receipt of knowledge of the debt in order to aid NRC in making appropriate determinations as to:

(a) The collection and compromise of a debt;

(b) The collection of interest, penalties, and administrative costs;

(c) The use of administrative offset;

(d) The use of other collection methods; and

(e) The likelihood of collecting the debt.

20. Section 15.41 is revised to read as follows:

§ 15.41 When a claim may be compromised.

The NRC may compromise a claim not in excess of the monetary limitation if it has not been referred to GAO or to DOJ for litigation. Only the Comptroller General of the United States or designee may effect the compromise of a claim that arises out of an exception made by the GAO in the account of an accountable officer, including a claim against the payee, prior to its referral by GAO for litigation.

21. In § 15.43, paragraph (b) is amended by inserting a comma between the words "claimed" and "either," by revising paragraphs (c) and (d), and by adding paragraph (e) 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 4 CFR 103.4.

(d) The NRC shall determine the debtor's inability to pay, the Government's ability to enforce collection, and the amounts which are acceptable in compromise in accordance with the Federal Claims Collection Standards, 4 CFR part 103.

(e) Compromises payable in installments are discouraged, but, if necessary, must be in the form of a legally enforceable agreement for the reinstatement of the prior indebtedness less sums paid thereon. The agreement also must provide that in the event of default --

(1) The entire balance of the debt becomes immediately due and payable; and

(2) The Government has the right to enforce any security interest.

§ 15.45 [Amended]

22. In the first sentence of § 15.45, the word "or" is corrected to read "nor."

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, exclusive of interest, penalties, and administrative costs, after deducting the amount of partial payments, if any, if it has not been referred to GAO or to DOJ for litigation.

24. Section 15.61 is amended by redesignating paragraph (b) as paragraph (c), revising paragraph (a), and adding new paragraphs (b) and (d) to read as follows:

§ 15.61 Prompt referral.

(a) A claim which requires enforced collection action is referred to GAO or to DOJ for litigation. A referral is made as early as possible consistent with aggressive collection action and in any event well within the time required to bring a timely suit against the debtor. Ordinarily, referrals are made within one year of the NRC's final determination of the fact and the amount of the debt.

(b) When the merits of the NRC's claim, the amount owed on the claim, or the propriety of acceptance of a proposed compromise, suspension, or termination of collection actions is in doubt, the NRC shall refer the matter to the GAO for resolution and instructions prior to proceeding with collection action and/or referral to DOJ for litigation.

* * * * *

(d) Once a claim has been referred to GAO or to DOJ under this subpart, the NRC shall refrain from having any contact with the debtor and shall direct the debtor to GAO or DOJ, as appropriate, when questions concerning the claim are raised by the debtor. The NRC shall immediately advise GAO or DOJ, as appropriate, of any payments by the debtor.

§ 15.63 [Removed]

25. Section 15.63 is removed.

26. Section 15.67 is amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c), respectively, and by adding new paragraphs (a) and (d) to read as follows:

§ 15.67 Referral to the Department of Justice.

(a) Claims for which the gross original amount is over $100,000 must be referred to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, DC 20530. Claims for which the gross original amount is $100,000 or less must be referred to the United States Attorney in whose district the debtor can be found.

* * * * *

(d) Claims must be referred to the Department of Justice in the manner prescribed by 4 CFR 105.2. Care must be taken to preserve all files, records, and exhibits on claims referred under paragraphs (a) and (b) of this section.

Dated at Rockville, Maryland, this 27th day of July 1990.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 90-18511 Filed 8-8-90; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-CE-06-AD; Amendment 39-6674]

Airworthiness Directives; Piper Model PA-34 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Piper Model PA-34 airplanes, which supersedes AD 81-12-04, Amendment 39-4129, and requires the replacement of the rudder torque tube fitting in accordance with Piper Service Bulletin (SB) 899, unless already accomplished. On numerous PA-34 airplanes, the aluminum rudder torque tube fitting was found cracked through the attachment holes, and some were found with elongated holes. This condition may lead to the loss of rudder effectiveness and possible loss of rudder control. The replacement of the rudder torque tube fitting with a steel part will prevent failure of the torque tube fitting and possible loss of rudder control.

EFFECTIVE DATES: September 14, 1990.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Piper SB 899, dated February 10, 1989, applicable to this AD may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (407) 567-4361, or may be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Dave Cundy, Aerospace Engineer, Airframe Branch, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; Telephone (404) 991-2910.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD requiring the replacement of the rudder torque fitting and attaching hardware on PA-34 airplanes in accordance with Piper SB 899 on all Piper PA-34 airplanes was published in the **Federal Register** on February 28, 1990 (55 FR 7004). The proposal was prompted by a significant number of Service Difficulty Reports (SDR's) pertaining to cracked rudder torque tube fittings on PA-34 airplanes. This condition may result in a loss of rudder effectiveness or possible loss of rudder control on these airplanes.

Background

The SDR's prior to 1981 led to the issuance of Piper SB 699 and AD 81-12-04, Amendment 39-4129, which specifically applied to PA-28RT-201, PA-28RT-201T, PA-34-200, and PA-34-200T model airplanes. The AD required the replacement of the rudder torque tube fitting, if necessary, with a "like part", that is, an aluminum fitting, P/N 96319-00V, after a one-time visual inspection. The rudder torque tube fittings on the PA-28 model airplanes were to be inspected in accordance with SB 699 to determine if the fittings were cracked and/or the holes elongated. The fittings were to be reinstalled or replaced with new fittings (P/N 96319-00V) and properly retorqued. Since that time, there have not been any further occurrences of cracked fittings or elongated holes in rudder torque tube fittings on the PA-28 fleet. Based on the satisfactory service history of this part, PA-28's and the requirements of SB 699 are not included in this AD.

Since 1984, approximately 48 SDR's were concerned with PA-34 airplanes, and many of those involved the PA-34-220T, which was not included either in SB 699 or AD 81-12-04. Piper Aircraft Corporation has subsequently issued SB 899, which requires replacing the aluminum rudder torque tube fitting on all PA-34 airplanes, including the model PA-34-220T airplane, with a steel fitting (P/N 96319-802).

This AD, which supersedes AD 81-12-04, requires the replacement of the rudder torque tube fitting in accordance with SB 899 for all PA-34-200, PA-34-200T, and PA-34-220T airplanes. Compliance will eliminate excess rudder play and possible loss of rudder effectiveness or control.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal. Accordingly, the proposal is adopted without change. The FAA has determined that this regulation involves approximately 2500 airplanes at a one-time cost of approximately $150 for each airplane, or a total one-time fleet cost of $375,000. The cost of complying with the proposed AD is so small that it will not have a significant financial impact on any small entities owning or operating the affected airplanes. The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and