

§ 15.27

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

[55 FR 32378, Aug. 9, 1990, as amended at 67 FR 30319, May 6, 2002]

§ 15.27 Contact with debtor's employing agency.

If the debtor is employed by the Federal government or is a member of the military establishment or the Coast Guard, collection by offset must be accomplished in accordance with 5 U.S.C. 5514 and the provisions of 10 CFR part 16.

[56 FR 51830, Oct. 16, 1991]

§ 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 Bank-

10 CFR Ch. I (1-1-05 Edition)

ruptcy Code which may restrict such action.

[67 FR 30320, May 6, 2002]

§ 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.

(c) The NRC may investigate the facts involved in the dispute and, if it considers it necessary, arrange for a conference at which the debtor may present evidence and any arguments in support of the debtor's position.

[47 FR 76716, Feb. 22, 1982, as amended at 55 FR 32379, Aug. 9, 1990]

§ 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.

[67 FR 30320, May 6, 2002]

§ 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:

Nuclear Regulatory Commission

§ 15.33

(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 Treas-

ury 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 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 (31 CFR 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 re-

quest 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 (c)(2) 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.

Nuclear Regulatory Commission

§ 15.35

(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 re-

view 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.

[67 FR 30320, May 6, 2002]

§ 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 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.