for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions

§ 185.144 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 185.142 or § 185.143, or any amount agreed upon in a compromise or settlement under § 185.146, may be collected by administrative offset under section 3716 of title 31, United States Code, except that an administrative offset may not be made under section 3716 against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

§ 185.145 Deposit in Treasury of the United States.

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in section 3806(g) of title 31, United States Code.

§ 185.146 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time.

- (b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.
- (c) The authority head has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an initial decision, except during the pendency of any review under § 185.142 or during the pendency of any action to collect penalties and assessments under § 185.143.
- (d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 185.142 or of any action to recover penalties and assessments under section 3806 to title 31, United States Code.
- (e) The investigating official may recommend settlement terms to the reviewing official, the authority head, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the authority head, or the Attorney General, as appropriate.
- (f) Any compromise or settlement must be in writing.

§185.147 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 185.108 within 6 years after the date on which such a claim or statement is made.

(b) If the defendant fails to file a timely answer, service of a notice under § 185.110(b) shall be deemed a notice of hearing for purposes of this section.

(c) the statute of limitations may be executed by written agreement of the parties.

[FR Doc. 95–3347 Filed 2–9–95; 8:45 am]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20 RIN 3150-AF08

Frequency of Medical Examinations for Use of Respiratory Protection Equipment

AGENCY: Nuclear Regulatory

Commission. **ACTION:** Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations concerning the frequency at which medical fitness determinations are required to ensure the safe use of respiratory protection equipment. Section 10 CFR 20.1703(a)(3)(v) currently requires the determination by a physician prior to initial fitting of respirators, and at least every 12 months thereafter, that the individual user is physically able to use the respiratory protection equipment. The amended rule requires determination by a physician prior to initial fitting of respirators and either every 12 months thereafter or periodically at a frequency determined by a physician, that the individual user is medically fit to use the respiratory protection equipment. The final rule reduces the burden on licensees without adversely impacting public health and safety.

EFFECTIVE DATE: March 13, 1995. **FOR FURTHER INFORMATION CONTACT:** Alan K. Roecklein, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6223.

SUPPLEMENTARY INFORMATION:

Background

The requirement for an annual medical examination to ensure safe use of respiratory equipment has been in the regulations for some time. The need for these examinations was reconfirmed by the American National Standards Institute (ANSI) in ANSI Z88.2–1992. However, considerable experience with implementation of the requirement has indicated that the annual frequency of medical examinations is costly and

could be reduced significantly with no adverse impact on health and safety. The NRC Regulatory Review Group reviewed the existing requirement and concluded that the frequency of medical examinations could be reduced without adverse impact on worker safety. This change was recommended to the Commission as a candidate for licensee burden reduction in SECY–94–003 and supported by the Commission by memorandum from Samuel J. Chilk to James M. Taylor dated February 14, 1994.

The ANSI reviewed this issue and, in ANSI Z88.6 1984, published a recommendation that the frequency of medical examination should be determined by a physician and should be reduced based on age of the worker. ANSI recommended an examination every 5 years up to age 35, every 2 years up to age 45, and annually thereafter. ANSI also recommended special additional evaluations after prolonged absence from work for medical reasons or whenever a functional disability has been identified. These ANSI recommendations were reconfirmed in ANSI Z88.2-1992.

A proposed rule was published in the **Federal Register** on September 16, 1994 (59 FR 47565), for public comment. Ten letters of comment were received, all supporting the proposed rule. Consequently the NRC is codifying the rule as it was proposed.

The final rule provides for periodic medical examinations at either the 12month interval as currently required or optionally at a frequency determined by a physician. Under this rule, licensees can elect to have the physician include in the initial medical examination or at the next 12-month reexamination, a determination of when each individual would need to be reexamined. Part 20 requires written procedures for use of respiratory protection equipment. Consequently, current procedures and license conditions likely include the annual frequency and a change in procedures or license conditions will be needed to implement a change in frequency of reexamination. The recommended frequencies contained in the ANSI standard may provide guidance on determining an appropriate frequency of reexamination which may be useful to physicians in determining frequency of reexamination. However, the Commission is not endorsing this standard. Rather the Commission believes that the frequency of reexamination should be determined by the examining physician.

The final rule uses the terminology "medically fit" rather than "physically able" to use a respirator. As indicated in