

that might affect a worker's fitness to use respirators. However, the content of the reevaluations would be determined by a physician and would not necessarily include a physical examination. For example, a questionnaire could be used by a physician to determine whether or not more extensive reevaluations were necessary.

NIOSH also recommended that the initial evaluation include at least a limited physical examination that could be performed by a physician or by a non-physician health professional.

The NRC staff believes that its intent is in substantial agreement with NIOSH. Several NRC staff documents have discussed the medical fitness determination in a manner consistent with the NIOSH suggestion. The NRC position continues to be that a complete physical examination of each respirator user is not required, only an initial medical examination and an annual review of medical status (or less frequently as determined by a physician).

The physician might or might not require a physical examination as part of the health assessment. The NRC staff believes that physicians need not administer each test personally, but that the physician may designate someone such as an office nurse to certify medical fitness as long as it is clear that the physician is ultimately responsible for the fitness determination. Likewise, the NRC staff believes that the physician should be involved in the supervision of the fitness program, the review of overall results and individual cases that fall outside certain physician determined parameters, and supervision of personal performing the tests.

The final rule retains the language “\* \* \* determination by a physician prior to the 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 rule, as codified by this action, does not use the terms examination or evaluation. The NRC does not believe that the level of detail suggested by NIOSH is necessary in the regulations because all of the activities fall within the framework of the “determination” by a physician and would be considered as acceptable practice. The discussion in this statement of consideration makes it clear that the fitness determination can consist of several instruments and methods, as suggested by NIOSH.

#### Finding of No Significant Environmental Impact: Availability

The NRC 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 will not be a major Federal action significantly affecting the quality of the human environment and therefore, an environmental impact statement is not required.

The NRC has not prepared a separate environmental assessment. The following discussion in conjunction with the regulatory analysis which follows constitutes the assessment. Performing a medical examination to determine that a worker is medically fit to use respiratory protection equipment generates minimal waste, results in small recordkeeping burden, and has no other identifiable environmental impact. The effect of this rulemaking is to allow a reduction in the frequency of such examinations, thus reducing any conceivable environmental impact even further. No comments on the draft assessment in the proposed rule notice were received.

#### Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150-0014.

#### Regulatory Analysis

The regulatory analysis for this rulemaking is as follows:

##### 1. Alternatives

###### No Action.

The annual medical examination requirement has been in place for a number of years, and is considered by the NRC staff to provide adequate health and safety to workers. However, the annual requirement consumes considerable resources with little demonstrated improvement in worker health or safety when compared to longer examination intervals. The ANSI committee and a peer review of the proposed standard Z88.6 (1984) found no reasons for not reducing the frequency of medical examination. Thus, it would appear that the frequency of medical examination can be significantly reduced at considerable savings and with no adverse impact on worker health and safety. The “no-action” alternative is not preferable in view of the cost of compliance relative to the minimal risk reduction observed.

#### Regulatory Guidance

The alternative of modifying the guidance in Regulatory Guide 8.15 is not considered a viable alternative for providing regulatory relief because the existing rule is very specific, and requirements in the regulations cannot be revised by modifying a regulatory guide.

#### Changes to Regulation

Because the problem is a specific requirement in a rule, the most effective solution providing regulatory relief is to modify the rule. Other alternatives such as issuance of an order, modifying license conditions or discretionary enforcement were considered. These alternatives are usually interim and are used when immediate action is deemed necessary. Because a permanent correction is desired and there is no reason for immediate action, these other alternatives were not selected.

#### 2. Impact of Proposed Action

##### Licensees

Licensees that have respiratory protection programs will continue to be required to provide medical examinations to workers. The change is to permit reducing the frequency at which the examinations are required based on determination by a physician. This action constitutes a reduction in burden and costs. Although minor changes in procedures or license conditions will be needed, the related costs are a one time cost that will be offset by the savings in medical reexamination costs.

##### Workers

Workers will be subject to medical examinations for respirator use less frequently. As found by the ANSI review, experience with the annual respiratory medical examination requirement has shown that less frequent examinations for younger workers, with special examinations if conditions change, will be adequate to identify any medical reasons for not using respirators. The action does not impact medical examination requirements adopted by licensees for other reasons. Licensees will continue to be required to conduct medical examinations.

##### NRC Resources

It is estimated that 0.4 staff years of effort by NRC staff will have been expended to complete this rulemaking.

##### Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the NRC