

and Finance, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The NRC will pay the amount awarded to the applicant within 60 days.

PART 13—PROGRAM FRAUD CIVIL REMEDIES

- Sec.
- 13.1 Basis and purpose.
 - 13.2 Definitions.
 - 13.3 Basis for civil penalties and assessments.
 - 13.4 Investigation.
 - 13.5 Review by the reviewing official.
 - 13.6 Prerequisites for issuing a complaint.
 - 13.7 Complaint.
 - 13.8 Service of complaint.
 - 13.9 Answer.
 - 13.10 Default upon failure to file an answer.
 - 13.11 Referral of complaint and answer to the ALJ.
 - 13.12 Notice of hearing.
 - 13.13 Parties to the hearing.
 - 13.14 Separation of functions.
 - 13.15 Ex parte contacts.
 - 13.16 Disqualification of reviewing official or ALJ.
 - 13.17 Rights of parties.
 - 13.18 Authority of the ALJ.
 - 13.19 Prehearing conferences.
 - 13.20 Disclosure of documents.
 - 13.21 Discovery.
 - 13.22 Exchange of witness lists, statements, and exhibits.
 - 13.23 Subpoenas for attendance at hearing.
 - 13.24 Protective order.
 - 13.25 Fees.
 - 13.26 Form filing and service of papers.
 - 13.27 Computation of time.
 - 13.28 Motions.
 - 13.29 Sanctions.
 - 13.30 The hearing and burden of proof.
 - 13.31 Determining the amount of penalties and assessments.
 - 13.32 Location of hearing.
 - 13.33 Witnesses.
 - 13.34 Evidence.
 - 13.35 The record.
 - 13.36 Post-hearing briefs.
 - 13.37 Initial decision.
 - 13.38 Reconsideration of initial decision.
 - 13.39 Appeal to authority head.
 - 13.40 Stays ordered by the Department of Justice.
 - 13.41 Stay pending appeal.
 - 13.42 Judicial review.
 - 13.43 Collection of civil penalties and assessments.
 - 13.44 Right to administrative offset.
 - 13.45 Deposit in Treasury of United States.
 - 13.46 Compromise or settlement.
 - 13.47 Limitations.

Authority: Public Law 99-509, secs. 6101-6104, 100 Stat. 1874 (31 U.S.C. 3801-3812). Sections 13.13 (a) and (b) also issued under section Pub. L. 101-410, 104 Stat. 890, as amended by section 31001(s), Pub. L. 104-134, 110 Stat. 1321-373 (28 U.S.C. 2461 note).

SOURCE: 56 FR 47135, Sept. 18, 1991, unless otherwise noted.

§ 13.1 Basis and purpose.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Public Law No. 99-509, §§ 6101-6104, 100 Stat. 1874 (October 21, 1986) (31 U.S.C. 3801-3812). 31 U.S.C. 3809 requires each authority head to promulgate regulations necessary to implement the provisions of that Act.

(b) *Purpose.* This part (1) establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents, and (2) specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

§ 13.2 Definitions.

As used in this part:

ALJ means an Administrative Law Judge in the authority appointed pursuant to 5 U.S.C. 3105 or detailed to the authority pursuant to 5 U.S.C. 3344.

Authority means the Nuclear Regulatory Commission.

Authority head means the Commission of five members or a quorum thereof sitting as a body, as provided by section 201 of the Energy Reorganization Act of 1974 (88 Stat. 1242).

Benefit means, in the context of "statement", anything of value, including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

Claim means any request, demand, or submission—

(a) Made to the authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(b) Made to a recipient of property, services, or money from the authority or to a party to a contract with the authority—

Nuclear Regulatory Commission

§ 13.3

(1) For property or services if the United States—

(i) Provided such property or services;

(ii) Provided any portion of the funds for the purchase of such property or services; or

(iii) Will reimburse such recipient or party for the purchase of such property or services; or

(2) For the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(i) Provided any portion of the money requested or demanded; or

(ii) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(c) Made to the authority which has the effect of decreasing an obligation to pay or account for property, services, or money.

Complaint means the administrative complaint served by the reviewing official on the defendant under § 13.7.

Defendant means any person alleged in a complaint under § 13.7 to be liable for a civil penalty or assessment under § 13.3.

Government means the United States Government.

Individual means a natural person.

Initial decision means the written decision of the ALJ required by § 13.10 or § 13.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

Investigating official means the Inspector General of the Nuclear Regulatory Commission or the Assistant Inspector General for Investigations, Office of the Inspector General.

Knows or has reason to know means that a person, with respect to a claim or statement—

(a) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(b) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(c) Acts in reckless disregard of the truth or falsity of the claim or statement.

Makes, wherever it appears, shall include the terms presents, submits, and causes to be made, presented, or submitted. As the context requires, *making*

or *made* shall likewise include the corresponding forms of such terms.

Person means any individual, partnership, corporation, association, or private organization and includes the plural of that term.

Representative means any person designated by a party in writing.

Reviewing official means the General Counsel of the Nuclear Regulatory Commission or his or her designee who is—

(a) Not subject to supervision by, or required to report to, the investigating official;

(b) Not employed in the organizational unit of the authority in which the investigating official is employed; and

(c) Serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule.

Statement means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(a) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(b) With respect to (including relating to eligibility for)—

(1) A contract with, or a bid or proposal for a contract with; or

(2) A grant, loan, or benefit from, the authority, or any State, political subdivision of a State, or other party, if the United States government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit.

[56 FR 47135, Sept. 18, 1991; 56 FR 49945, Oct. 2, 1991, as amended at 62 FR 40427, July 29, 1997; 65 FR 59272, Oct. 4, 2000]

§ 13.3 Basis for civil penalties and assessments.

(a) *Claims*. (1) Any person who makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;