

§ 14.1

14.55 Removal of State court proceedings.
14.57 Suit against the United States exclusive remedy.

AUTHORITY: Sec. 1, 80 Stat. 306 (28 U.S.C. 2672); sec. 2679, 62 Stat. 984 as amended (28 U.S.C. 2679); sec. 161, 68 Stat. 948 as amended (42 U.S.C. 2201); 28 CFR 14.11.

SOURCE: 47 FR 8983, Mar. 3, 1982, unless otherwise noted.

Subpart A—General

§ 14.1 Scope of regulations.

(a) The terms “Nuclear Regulatory Commission” and “NRC” as used in this part mean the agency established by section 201(a) of the Energy Reorganization Act of 1974, but do not include any contractor with the Nuclear Regulatory Commission.

(b) The regulations in this part supplement the Department of Justice’s regulations in 28 CFR parts 14 and 15.

(c) These regulations apply to administrative claims under the Federal Tort Claims Act, as amended, asserted on or after the effective date of this rule, for money damages against the United States for damage to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the NRC while acting within the scope of his or her office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

(d) These regulations also set forth the procedures when lawsuits are commenced against an employee of the NRC resulting from the operation of a motor vehicle while acting within the scope of his or her employment.

§ 14.3 Limit on attorney fees; penalty.

(a) An attorney may not charge or receive fees in excess of:

(1) 25 percent of any judgment rendered under 28 U.S.C. 1346(b);

(2) 25 percent of any settlement made under 28 U.S.C. 2677; or

(3) 20 percent of any award, compromise, or settlement made under 28 U.S.C. 2672.

(b) Any attorney who charges or receives any amount in excess of that allowed under this section is subject to a

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fine of not more than \$2,000 or imprisonment for not more than one year, or both. (28 U.S.C. 2678)

Subpart B—Filing Procedures and Requirements

§ 14.11 Who may file a claim.

(a) A claim for damage to or loss of property may be presented by the owner of the property interest which is the subject of the claim, his or her duly authorized agent, or his or her legal representative.

(b) A claim for personal injury may be presented by the injured person, his or her duly authorized agent, or his or her legal representative.

(c) A claim based on death may be presented by the executor or administrator of the decedent’s estate, or by any other person legally entitled to assert the claim under applicable State law.

(d) A claim for loss wholly compensated by an insurer with the rights of a subrogee may be presented by the insurer. A claim for loss partially compensated by an insurer with the rights of a subrogee may be presented by the insurer or the insured individually, to the extent of their respective interests, or jointly. Whenever an insurer presents a claim asserting the rights of a subrogee, the insurer shall present with the claim appropriate evidence that the insurer has the rights of a subrogee.

(e) If a claim is presented by an agent or legal representative that person shall:

(1) Present the claim in the name of the claimant;

(2) Sign the claim;

(3) Show the title or legal capacity of the person signing the claim; and

(4) Include with the claim evidence of his or her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative.

§ 14.13 When is a claim presented to NRC.

For purposes of the provisions of 28 U.S.C. 2672, a claim is presented when NRC receives from a claimant, or the claimant’s duly authorized agent or legal representative, an executed

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Standard Form 95 or other written notification of an incident. An executed Standard Form 95 or written notification must be accompanied by a claim for money damages in a sum certain for damage to or loss of property, personal injury, or death alleged to have occurred by reason of the incident.

§ 14.15 Where to present a claim to NRC.

A claimant shall mail or deliver the claim to the office of employment of the NRC employee whose negligent or wrongful act or omission is alleged to have caused the loss or injury. If the office of employment is not known, the claimant shall file the claim with the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

[47 FR 8983, Mar. 3, 1982, as amended at 51 FR 35999, Oct. 8, 1986]

§ 14.17 A claim must be presented to the appropriate agency.

A claimant shall present the claim to the Federal agency whose activities gave rise to the claim. If a claim is erroneously presented to the NRC, the NRC shall transfer it to the appropriate agency, if the proper agency can be identified from the claim, and shall advise the claimant of the transfer. If transfer is not feasible, the NRC shall return the claim to the claimant. The fact of transfer does not, in itself, preclude further transfer, return of the claim to the claimant, or other appropriate disposition of the claim. A claim shall be presented, as required by 28 U.S.C. 2401(b), as of the date it is received by the appropriate agency.

§ 14.19 When a claim is filed with more than one agency.

(a) If the NRC and one or more other Federal agencies is or may be involved in the events giving rise to the claim, and if the claim is filed with the NRC, the NRC shall contact all other affected agencies in order to designate the single agency which will investigate and decide the merits of the claim.

(1) In the event that an agreed upon designation cannot be made by the affected agencies, the Department of Justice will be consulted and will des-

ignate a primary agency to investigate and decide the merits of the claim. If the NRC is designated as the primary agency, it shall notify the claimant that all future correspondence concerning the claim shall be directed to the NRC.

(2) All involved Federal agencies can agree either to conduct their own administrative reviews and to coordinate the results or to have the investigations conducted by the primary agency. In either event, the primary agency is responsible for the final determination of the claim.

(b) A claimant presenting a claim arising from an incident to more than one agency should identify each agency to which the claim is submitted at the time each claim is presented. If a claim arising from an incident is presented to more than one Federal agency without any indication that more than one agency is involved, and any one of the concerned Federal agencies takes final action on that claim, the final action is conclusive on the claims presented to the other agencies in regard to the time required for filing suit set forth in 28 U.S.C. 2401(b). However, if NRC, as a subsequently involved Federal agency, desires to take further action with a view towards settling the claim, the NRC may treat the matter as a request for reconsideration of the final denial under 10 CFR 14.39, unless suit has been filed in the interim, and advise the claimant of the action.

§ 14.21 Filing a claim after an agency final denial.

If, after a final denial by another agency, the claimant files with the NRC a claim arising out of the same incident on which the claim filed with the other agency was based, the submission of the claim to NRC will not toll the requirement of 28 U.S.C. 2401(b) that suit must be filed within six months of the final denial by the other agency, unless the other agency specifically and explicitly treats the submission to NRC as a request for reconsideration under 10 CFR 14.39 and advises the claimant of the action.