

§ 13.43

§ 13.43 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

§ 13.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 13.42 or § 13.43, or any amount agreed upon in a compromise or settlement under § 13.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

§ 13.45 Deposit in Treasury of 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 31 U.S.C. 3806(g).

§ 13.46 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 § 13.42 or during the pendency of any action to collect penalties and assessments under § 13.43.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 13.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The investigating officer may recommend settlement terms to the reviewing official, the authority head, or

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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.

§ 13.47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 13.8 within 6 years after the date on which such claim or statement is made.

(b) If the defendant fails to serve a timely answer, service of a notice under § 13.10(b) shall be deemed a notice of hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

PART 14—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

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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

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