

§ 1013.45

under § 1013.42 or § 1013.43 of this part, or any amount agreed upon in a compromise or settlement under § 1013.46 of this part, 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.

§ 1013.45 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).

§ 1013.46 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 § 1013.42 of this part or during the pendency of any action to collect penalties and assessments under § 1013.43 of this part.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 1013.42 of this part or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(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.

§ 1013.47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served

10 CFR Ch. X (1-1-06 Edition)

in the manner specified in § 1013.8 of this part within 6 years after the date on which such claim or statement is made.

(b) If the defendant fails to file a timely answer, service of notice under § 1013.10(b) of this part shall be deemed a notice of a hearing for purposes of this section.

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

PART 1014—ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT

Sec.

1014.1 Scope of regulations.

1014.2 Administrative claim; when presented; appropriate office.

1014.3 Administrative claim; who may file.

1014.4 Administrative claims; evidence and information to be submitted.

1014.5 Authority to adjust, determine, compromise, and settle.

1014.6 Limitation on authority.

1014.7 Referral to Department of Justice.

1014.8 Investigation and examination.

1014.9 Final denial of claim.

1014.10 Action on approved claims.

1014.11 Penalties.

AUTHORITY: Sec. 1(a), 80 Stat. 306, (28 U.S.C. 2672); 28 CFR part 14; sec. 644, Pub. L. 95-91, 91 Stat. 599, (42 U.S.C. 7254).

SOURCE: 45 FR 7768, Feb. 4, 1980, unless otherwise noted.

§ 1014.1 Scope of regulations.

(a) These regulations shall apply only to claims asserted under the Federal Tort Claims Act, as amended, accruing on or after January 18, 1967, for money damages against the United States for injury to, or loss of, property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Department of Energy (DOE) while acting within the scope of office or employment.

(b) The terms *DOE*, *Department*, and *Department of Energy* as used in this part mean the agency established by the Department of Energy Organization Act (Pub. L. 95-91), 42 U.S.C. 7101, *et seq.*, including the Federal Energy Regulatory Commission, but do not include any contractor of the Department.

Department of Energy

§ 1014.4

(c) The regulations in this part supplement the Attorney General's regulations in part 14 of chapter 1 of title 28 CFR as amended. Those regulations, including subsequent amendments thereto, and the regulations in this part apply to the consideration by DOE of administrative claims under the Federal Tort Claims Act.

§ 1014.2 Administrative claim; when presented; appropriate office.

(a) For purposes of these regulations, a claim shall be deemed to have been presented when DOE receives, at a place designated in paragraph (b) of this section, an executed Standard Form 95 or other written notification of an incident, accompanied by a claim for money damages in a definite amount for injury to or loss of property, personal injury, or death, that is alleged to have occurred by reason of the incident. A claim that should have been presented to DOE but which was mistakenly addressed to or filed with another Federal agency, shall be deemed to be presented to DOE on the date the claim is received by DOE. A claim mistakenly addressed to or filed with DOE shall be transferred to the appropriate Federal agency, if ascertainable, or returned to the claimant.

(b) Claims should be mailed in envelopes marked "Attention Office of General Counsel." Claims shall be mailed or delivered to the DOE installation or office employing the person or persons whose acts or omissions are alleged to have caused the loss, damage, or injury, unless the claimant does not know that address. If the proper address is unknown, claims may be mailed or delivered to: The General Counsel, U.S. Department of Energy, Washington, DC 20585. Forms may be obtained from the same places.

(c) A claim may be amended by the claimant at any time before final DOE action or before the exercise of the claimant's option under 28 U.S.C. 2675(a). Amendments shall be submitted in writing and signed by the claimant or a duly authorized agent or legal representative. If an amendment to a pending claim is filed in time, the DOE shall have 6 months to decide the claim as amended. The claimant's option under 28 U.S.C. 2675(a) shall not

accrue until 6 months after the filing of an amendment.

§ 1014.3 Administrative claim; who may file.

(a) A claim for injury to or loss of property may be presented by the owner of the property interest that is the subject of the claim or the owner's duly authorized agent or legal representative.

(b) A claim for personal injury may be presented by the injured person or the claimant's duly authorized agent or 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 such a claim under the applicable State law.

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

(e) A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or legal representative, show the title or legal capacity of the person signing, and be accompanied by evidence of authority to present a claim on behalf of the claimant.

§ 1014.4 Administrative claims; evidence and information to be submitted.

(a) *Death.* In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence showing the cause of death, the date of death, and the age of the decedent.

(2) Decedent's employment or occupation at time of death, including monthly or yearly salary or earnings