

## Nuclear Regulatory Commission

## § 15.45

the NRC determines that the automatic stay imposed at the time of filing pursuant to 11 U.S.C. 362 has been lifted or is no longer in effect, collection activity against the debtor will in most cases stop immediately.

(a) After seeking legal advice from its Office of the General Counsel, a proof of claim usually will be filed with the bankruptcy court or the Trustee.

(b) If the NRC is a secured creditor, it may seek relief from the automatic stay regarding its security, subject to the provisions and requirements of 11 U.S.C. 362.

(c) Offset is stayed in most cases by the automatic stay. However, the NRC will seek legal advice from its Office of the General Counsel to determine whether its payments to the debtor and payments of other agencies available for offset may be frozen by the agency until relief from the automatic stay can be obtained from the bankruptcy court. The NRC will seek legal advice from its Office of the General Counsel to determine if recoupment is available.

[67 FR 30322, May 6, 2002]

### Subpart C—Compromise of a Claim

#### § 15.41 When a claim may be compromised.

(a) The NRC may compromise a claim not in excess of the monetary limitation if it has not been referred to DOJ for litigation.

(b) Unless otherwise provided by law, when the principal balance of a debt, exclusive of interest, penalties, and administrative costs, exceeds \$100,000 or any higher amount authorized by the Attorney General, the authority to accept the compromise rests with the DOJ. The NRC will evaluate the compromise offer, using the factors set forth in this part. If an offer to compromise any debt in excess of \$100,000 is acceptable to the NRC, the NRC shall refer the debt to the Civil Division or other appropriate litigating division in the DOJ using a CCLR. The referral must include appropriate financial information and a recommendation for the acceptance of the compromise offer. DOJ approval is not required if

the compromise offer is rejected by NRC.

[67 FR 30322, May 6, 2002]

#### § 15.43 Reasons for compromising a claim.

A claim may be compromised for one or more of the reasons set forth below:

(a) The full amount cannot be collected because:

(1) The debtor is unable to pay the full amount within a reasonable time; or

(2) The debtor refuses to pay the claim in full and the Government is unable to enforce collection in full within a reasonable time by enforced collection proceedings.

(b) There is a real doubt concerning the Government's ability to prove its case in Court for the full amount claimed, either because of the legal issues involved or a bona fide dispute as to the facts.

(c) The cost of collecting the claim does not justify the enforced collection of the full amount. The NRC shall apply this reason for compromise in accordance with the guidance in 31 CFR 902.2.

(d) The NRC shall determine the debtor's inability to pay, the Government's ability to enforce collection, and the amounts that are acceptable in compromise in accordance with the FCCS, 31 CFR part 902.

(e) Compromises payable in installments are discouraged, but, if necessary, must be in the form of a legally enforceable agreement for the reinstatement of the prior indebtedness less sums paid thereon. The agreement also must provide that in the event of default—

(1) The entire balance of the debt becomes immediately due and payable; and

(2) The Government has the right to enforce any security interest.

[47 FR 7616, Feb. 22, 1982, as amended at 55 FR 32380, Aug. 9, 1990; 67 FR 30322, May 6, 2002]

#### § 15.45 Consideration of tax consequences to the Government.

(a) The NRC may accept a percentage of a debtor's profits or stock in a debtor corporation in compromise of a claim. In negotiating a compromise

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with a business concern, the NRC should consider requiring a waiver of tax-loss-carry-forward and tax-loss-carry-back rights of the debtor. For information on reporting requirements, see § 15.60.

(b) When two or more debtors are jointly and severally liable, the NRC will pursue collection activity against all debtors, as appropriate. The NRC will not attempt to allocate the burden of payment between the debtors but will proceed to liquidate the indebtedness as quickly as possible. The NRC will ensure that a compromise agreement with one debtor does not release the NRC's claim against the remaining debtors. The amount of a compromise with one debtor shall not be considered a precedent or binding in determining the amount that will be required from other debtors jointly and severally liable on the claim.

[67 FR 30322, May 6, 2002]

### § 15.47 Finality of a compromise.

An offer of compromise must be in writing and signed by the debtor. An offer of compromise which is accepted by the NRC is final and conclusive on the debtor and on all officials, agencies, and courts of the United States, unless obtained by fraud, misrepresentation, the presentation of a false claim, or mutual mistake of fact.

### § 15.49 Mutual releases of the debtor and the Government.

(a) In all appropriate instances, a compromise that is accepted by NRC should be implemented by means of a mutual release.

(1) The debtor is released from further non-tax liability on the compromised debt in consideration of payment in full of the compromised amount.

(2) The Government and its officials, past and present, are released and discharged from any and all claims and causes of action arising from the same transaction held by the debtor.

(b) If a mutual release is not executed when a debt is compromised, unless prohibited by law, the debtor is still deemed to have waived any and all claims and causes of action against the Government and its officials related to

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the transaction giving rise to the compromised debt.

[67 FR 30322, May 6, 2002]

### Subpart D—Suspension or Termination of Collection Action

#### § 15.51 When collection action may be suspended or terminated.

The NRC may suspend or terminate collection action on a claim not in excess of the monetary limitation of \$100,000 or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs, after deducting the amount of partial payments or collections, if any of the debt has not been referred to the DOJ for litigation. If, after deducting the amount of any partial payments or collections, the principal amount of a debt exceeds \$100,000, or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs, the authority to suspend or terminate rests solely with the DOJ. If the NRC believes that suspension or termination of any debt in excess of \$100,000 may be appropriate, the NRC shall refer the debt to the Civil Division or other appropriate litigating division in the DOJ, using the CCLR. The referral should specify the reasons for the NRC's recommendation. If, prior to referral to the DOJ, the NRC determines that a debt is plainly erroneous or clearly without legal merit, the NRC may terminate collection activity, regardless of the amount involved, without obtaining DOJ concurrence.

[67 FR 30323, May 6, 2002]

#### § 15.53 Reasons for suspending collection action.

The NRC may suspend collection activity when:

(a) The NRC cannot locate the debtor;

(b) The debtor's financial condition is not expected to improve; or

(c) The debtor has requested a waiver or review of the debt.

(d) Based on the current financial condition of the debtor, the NRC may suspend collection activity on a debt