

§ 140.82

for his injury or damage. If there has not been an extraordinary nuclear occurrence determination, the claimant must proceed (in the absence of settlement) with a tort action subject to whatever issues must be met, and whatever defenses are available to the defendant, under the law applicable in the relevant jurisdiction. If there has been an extraordinary nuclear occurrence determination, the claimant must still proceed (in the absence of settlement) with a tort action, but the claimant's burden is substantially eased by the elimination of certain issues which may be involved and certain defenses which may be available to the defendant. In either case the defendant may defend with respect to such of the following matters as are in issue in any given claim: The nature of the claimant's alleged damages, the causal relationship between the event and the alleged damages, and the amount of the alleged damages.

[33 FR 15999, Oct. 31, 1968, as amended at 40 FR 8793, Mar. 3, 1975; 72 FR 49565, Aug. 28, 2007]

§ 140.82 Procedures.

(a) The Commission may initiate, on its own motion, the making of a determination as to whether or not there has been an extraordinary nuclear occurrence. In the event the Commission does not so initiate the making of a determination, any affected person, or any licensee or person with whom an indemnity agreement is executed or a person providing financial protection may petition the Commission for a determination of whether or not there has been an extraordinary nuclear occurrence. If the Commission does not have, or does not expect to have, within 7 days after it has received notification of an alleged event, enough information available to make a determination that there has been an extraordinary nuclear occurrence, the Commission will publish a notice in the FEDERAL REGISTER setting forth the date and place of the alleged event and requesting any persons having knowledge thereof to submit their information to the Commission.

(b) When a procedure is initiated under paragraph (a) of this section, the Commission will designate members of

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the principal staff to begin immediately to assemble the relevant information and prepare a report on which the Commission can make its determination.

[33 FR 15999, Oct. 31, 1968, as amended at 40 FR 8794, Mar. 3, 1975]

§ 140.83 Determination of extraordinary nuclear occurrence.

If the Commission determines that both of the criteria set forth in §§140.84 and 140.85 have been met, it will make the determination that there has been an extraordinary nuclear occurrence. If the Commission publishes a notice in the FEDERAL REGISTER in accordance with §140.82(a) and does not make a determination within 90 days thereafter that there has been an extraordinary nuclear occurrence, the alleged event will be deemed not to be an extraordinary nuclear occurrence. The time for the making of a determination may be extended by the Commission by notice published in the FEDERAL REGISTER.

[33 FR 15999, Oct. 31, 1968]

§ 140.84 Criterion I—Substantial discharge of radioactive material or substantial radiation levels offsite.

The Commission will determine that there has been a substantial discharge or dispersal of radioactive material offsite, or that there have been substantial levels of radiation offsite, when, as a result of an event comprised of one or more related happenings, radioactive material is released from its intended place of confinement or radiation levels occur offsite and either of the following findings are also made:

(a) The Commission finds that one or more persons offsite were, could have been, or might be exposed to radiation or to radioactive material, resulting in a dose or in a projected dose in excess of one of the levels in the following table:

TOTAL PROJECTED RADIATION DOSES	
Critical organ	Dose (rems)
Thyroid	30
Whole body	20
Bone marrow	20
Skin	60
Other organs or tissues	30