

## Department of Energy

## § 1015.103

debts to the Department of Justice (DOJ) for litigation. Additional guidance is contained in the Office of Management and Budget's (OMB) Circular A-129 (Revised), "Policies for Federal Credit Programs and Non-Tax Receivables," the Treasury's "Managing Federal Receivables," and other publications concerning debt collection and debt management. These publications are available from the Department of Energy (DOE) Office of Financial Policy, 1000 Independence Ave., SW., Washington, DC 20585.

(b) Additional rules governing centralized administrative offset and the transfer of delinquent debt to Treasury or Treasury-designated debt collection centers for collection (cross-servicing) under the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104-134, 110 Stat. 1321, 1358 (April 26, 1996), are set forth in separate regulations issued by Treasury. Rules governing the use of certain debt collection tools created under the DCIA, such as administrative wage garnishment, also are set forth in separate regulations issued by Treasury. See generally, 31 CFR part 285.

(c) DOE is not limited to the remedies contained in this part and may use any other authorized remedies, including alternative dispute resolution and arbitration, to collect civil claims, to the extent that such remedies are not inconsistent with the Federal Claims Collection Act, as amended, Public Law 89-508, 80 Stat. 308 (July 19, 1966), the Debt Collection Act of 1982, Public Law 97-365, 96 Stat. 1749 (October 25, 1982), the DCIA or other relevant law. The regulations in this part do not impair DOE's common law rights to collect debts.

(d) Standards and policies regarding the classification of debt for accounting purposes (for example, write-off of uncollectible debt) are contained in OMB's Circular A-129 (Revised), "Policies for Federal Credit Programs and Non-Tax Receivables."

### § 1015.102 Definitions and construction.

(a) For the purposes of the standards in this part, the terms "claim" and "debt" are synonymous and interchangeable. They refer to an amount of

money, funds, or property that has been determined by an agency official to be due the United States from any person, organization, or entity, except another Federal agency. For the purposes of administrative offset under 31 U.S.C. 3716, the terms "claim" and "debt" include an amount of money, funds, or property owed by a person to a State (including past-due support being enforced by a State), the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico.

(b) A debt is "delinquent" if it has not been paid by the date specified in DOE's initial written demand for payment or applicable agreement or instrument (including a post-delinquency payment agreement), unless other satisfactory payment arrangements have been made.

(c) In this part, words in the plural form shall include the singular and vice versa, and words signifying the masculine gender shall include the feminine and vice versa. The terms "includes" and "including" do not exclude matters not listed but do include matters that are in the same general class.

(d) Recoupment is a special method for adjusting debts arising under the same transaction or occurrence. For example, obligations arising under the same contract generally are subject to recoupment.

(e) The term "Department of Energy" or "DOE" includes the National Nuclear Security Administration.

### § 1015.103 Antitrust, fraud, tax, inter-agency, transportation account audit, acquisition contract, and financial assistance instrument claims excluded.

(a) The standards in this part relating to compromise, suspension, and termination of collection activity do not apply to any debt based in whole or in part on conduct in violation of the antitrust laws or to any debt involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim. Only the DOJ has the authority to compromise, suspend, or terminate collection activity on such

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claims. The standards in this part relating to the administrative collection of claims do apply, but only to the extent authorized by the DOJ in a particular case. Upon identification of a claim based in whole or in part on conduct in violation of the antitrust laws or any claim involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim, DOE will promptly refer the case to the DOJ for action. At its discretion, the DOJ may return the claim to DOE for further handling in accordance with the standards in this part.

(b) Part 1015 does not apply to tax debts.

(c) Part 1015 does not apply to claims between Federal agencies. Federal agencies should attempt to resolve interagency claims by negotiation in accordance with Executive Order 12146 (3 CFR, 1980 Comp., pp. 409–412).

(d) Part 1015 does not apply to claims arising from the audit of transportation accounts pursuant to 31 U.S.C. 3726 which shall be determined, collected, compromised, terminated, or settled in accordance with regulations published under the authority of 31 U.S.C. 3726 (see 41 CFR parts 101–141, administered by the Director, Office of Transportation Audits, General Services Administration) and are otherwise excepted from these regulations.

(e)(1) Part 1015 does not apply to claims arising out of acquisition contracts, subcontracts, and purchase orders which are subject to the Federal Acquisition Regulations System, including the Federal Acquisition Regulation, 48 CFR subpart 32.6, and the Department of Energy Acquisition Regulation, 48 CFR subpart 932.6, and which shall be determined or settled in accordance with those regulations; and

(2) Part 1015 does not apply to claims arising out of financial assistance instruments (*e.g.*, grants, cooperative agreements, and contracts under cooperative agreements) and loans and loan guarantees, which shall be determined or settled in accordance with 10 CFR 600.26 and 10 CFR 600.112(f).

## 10 CFR Ch. X (1–1–11 Edition)

### § 1015.104 **Compromise, waiver, or disposition under other statutes not precluded.**

Nothing in this part precludes DOE from disposing of any claim under statutes and implementing regulations other than subchapter II of chapter 37 of Title 31 of the United States Code (Claims of the United States Government) and the standards in this part. In such cases, the specifically applicable laws and regulations will generally take precedence over this part.

### § 1015.105 **Form of payment.**

Claims may be paid in the form of money or, when a contractual basis exists, the Government may demand the return of specific property or the performance of specific services.

### § 1015.106 **Subdivision of claims not authorized.**

Debts may not be subdivided to avoid the monetary ceiling established by 31 U.S.C. 3711(a)(2). A debtor's liability arising from a particular transaction or contract shall be considered a single debt in determining whether the debt is one of less than \$100,000 (excluding interest, penalties, and administrative costs) or such higher amount as the Attorney General shall from time to time prescribe for purposes of compromise or suspension or termination of collection activity.

### § 1015.107 **Required administrative proceedings.**

DOE is not required to omit, foreclose, or duplicate administrative proceedings required by contract or other laws or regulations.

### § 1015.108 **No private rights created.**

The standards in this part do not create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person, nor shall the failure of DOE, Treasury, the DOJ or other agency to comply with any of the provisions of this part be available to any debtor as a defense.