



NUCLEAR REGULATORY COMMISSION

10 CFR Parts 12 and 13

[NRC-2025-0019]

RIN 3150-AL31

Administrative False Claims Act of 2023

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its Program Fraud Civil Remedies Act (PFCRA) regulations to ensure compliance with the Administrative False Claims Act of 2023 (AFCA). The AFCA requires agencies to review and update existing regulations to ensure compliance with the AFCA amendments. This final rule includes changes to the NRC's PFCRA regulations required to meet the AFCA amendments and includes edits to correct typographical errors.

DATES: This final rule is effective on **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Please refer to Docket ID NRC-2025-0019 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2025-0019. Address questions about NRC dockets to Helen Chang; telephone:

301-415-3228; email: Helen.Chang@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The unofficial redline strikeout version of the final rule changes to regulatory text is available in ADAMS under Accession No. ML25106A060.

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Amy McKenna, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; email: Amy.McKenna@nrc.gov.

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I. Background

In 1986, Congress enacted the Program Fraud Civil Remedies Act (PFCRA), a statute that provides Federal agencies, when the U.S. Department of Justice (DOJ) approves, a remedy to recover government losses resulting from false claims and fraud. Considered a “sister scheme” to the False Claims Act (FCA), a broader Federal law that allows the DOJ to pursue larger-scale fraud cases, PFCRA cases typically involved smaller claims and false statements that the DOJ may not otherwise select for criminal or civil enforcement. When it was enacted, the PFCRA required Federal agencies, including the NRC, to promulgate rules and regulations to implement the PFCRA’s provisions (31 U.S.C. 3809). The NRC’s implementing PFCRA regulations were finalized in 1991 (56 FR 47135) and are found in part 13 of title 10 of the *Code of Federal Regulations* (10 CFR), “Program Fraud Civil Remedies.”

II. Discussion

On December 23, 2024, the “Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025” (NDAA) was signed into law. Found at Section 5203 of the NDAA is the AFCA, which amends and renames the PFCRA. The AFCA, 31 U.S.C. 3801-3812, requires Federal agencies to amend their existing regulations and procedures to comply with the statute no later than June 21, 2025. This final rule amends 10 CFR part 13, “Program Fraud Civil Remedies,” along with the references to the PFCRA contained in 10 CFR part 12, “Implementation of the Equal Access to Justice Act in Agency Proceedings,” to implement the following statutory changes consistent with the AFCA:

- *Replacing all references to the PFCRA with the AFCA.* The NDAA changes the PFCRA’s official short title to the AFCA and states that any reference to the PFCRA in any law, regulation, map, document, record, or other paper of the United States is now a reference to the AFCA. This final rule revises the statute title from the PFCRA to the AFCA throughout 10 CFR

parts 12 and 13, including updating the referenced statute at §§ 12.101, “Purpose,” and 12.103, “Proceedings covered”; retitling the part heading at 10 CFR part 13; and updating the referenced statute at §§ 13.1, “Basis and purpose,” and 13.4, “Investigation.”

- *Replacing the maximum recoverable amount through an AFCA case from \$150,000 to \$1 million.* Previously, the PFCRA only authorized Federal agencies to bring a case administratively for no more than \$150,000 per claim (or groups of related claims). The AFCA raises the potential recovery amount for an AFCA claim (or groups of related claims) to \$1 million. Accordingly, this final rule revises § 13.6, “Prerequisites for issuing a complaint,” to increase the amount of \$150,000 to \$1,000,000 at paragraph (a)(2). The civil penalty of not more than \$14,308 for each such claim or statement remains the same in paragraphs (a)(1)(iv) and (b)(1)(ii) of § 13.3, “Basis for civil penalties and assessments.” Additionally, this final rule corrects, i.e., retitles, the typographical error in the section heading of § 13.6, from “Prerequisites” to “Prerequisites.”

- *Revising the regulations to state that any money collected goes first to reimburse the agency or any Federal entity that expended costs for investigation and prosecution costs, and then any excess would go to the U.S. Treasury.* Previously, under the PFCRA, a Federal agency would bear the costs of investigating and prosecuting a PFCRA case, and with limited exceptions not relevant to the NRC, all penalties or assessments would be deposited as miscellaneous receipts in the U.S. Treasury. The AFCA, in contrast, now provides that any penalty or assessment amount collected is first credited to the authority or other Federal entity that expended costs in support of the investigation or prosecution of the action, including any court or hearing costs, with only the remainder (if any) going to the U.S. Treasury as miscellaneous receipts. This final rule retitles the section heading for § 13.45, “Deposit in Treasury of United States,” to “Recovery of Costs and Deposit in Treasury of United States,” to align with the AFCA changes.

- *Adding definitions for “material” and “obligation.”* The AFCA, 31 U.S.C. 3801(a), adopts by reference the definitions for the terms “material” and “obligation” from the False Claims Act, another Federal statute that allows the DOJ to pursue large-scale fraud cases.

Previously, these terms were undefined in the PFCRA. As stated in the AFCA, “obligation” has the meaning given in the False Claims Act, 31 U.S.C. 3729(b), which defines the term to mean an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment. For purposes of determining AFCA liability for a false claim or statement submitted to the Government, materiality shall be determined in the same manner as under the False Claims Act, 31 U.S.C. 3729(b), which defines material to mean having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property. Accordingly, this final rule adds a new definition for “obligation” in § 13.2, “Definitions,” and new paragraph (f) to § 13.3 to reference the AFCA definition for “material.”

- *Expanding the list of claims that Federal agencies can pursue.* The AFCA expands the list of claims that a Federal agency can pursue by imposing liability for submissions of “reverse false claims.” A reverse false claim is when a person acts improperly—not to get money from the Government—but to avoid having to pay money to the Government. The AFCA amends the provision defining one category of claims so that it now allows a Federal agency to pursue a claim against any person for an act that has the effect of concealing or improperly avoiding or decreasing an “obligation” (as newly defined under the AFCA amendments) to pay or transmit property, services, or money to the Government. This final rule revises the current definition of “Claim,” as used in this part at § 13.2, to describe concealing or improperly avoiding or decreasing an obligation.

- *Revising the statute of limitations for an AFCA action.* The AFCA revises the statute of limitations for when a Federal agency can bring an AFCA action, both by giving agencies direct control over whether any given action will comply with the statute of limitations and by extending the statute of limitations period in certain situations. Previously, under the PFCRA, the statute of limitations for an AFCA action was met if the hearing was “commenced” within 6 years after the date of the alleged violation. The new statute of limitations for an AFCA action is that the agency must serve notice to the person alleged to be liable with respect to a claim or

statement no later than the later of either: (a) 6 years after the date on which the violation is committed; or (b) 3 years after the date on which facts material to the action are known or reasonably should have been known by the agency, but in no event more than 10 years after the date on which the violation is committed. This final rule revises paragraphs (a) and (b) of § 13.47, “Limitations,” to align with this change under the AFCA.

- *Adding a notification requirement for the reviewing official.* Under the AFCA, as was also true under the PFCRA, the reviewing official has the exclusive authority to compromise or settle any allegations of AFCA liability against a person at any time after the date on which the DOJ authorizes the case to move forward and prior to the date the presiding officer issues a decision. However, the AFCA now requires that the reviewing official notify the Attorney General in writing not later than 30 days before entering into any agreement to compromise or settle allegations of liability under the AFCA and before the date on which the reviewing official is permitted to refer the allegations of liability to a presiding officer. This final rule revises paragraph (b) of § 13.46, “Compromise or settlement,” to align with the AFCA notification requirement. Additionally, this final rule corrects the typographical errors in § 13.46(c) and (d), from “pendancy” to “pendency.”

The NRC prepared an unofficial redline strikeout version of the final rule changes to regulatory text that is intended to help the reader identify the changes. The unofficial redline strikeout version of the final rule is publicly available at ADAMS Accession No. ML25106A060. The NRC is providing the unofficial redline for public information but is not seeking public comment on the unofficial redline.

III. Rulemaking Procedure

This final rule is being issued without prior public notice or opportunity for public comments. The Administrative Procedure Act (5 U.S.C. 553(b)(B)) does not require an agency to use the public notice and comment process “when the agency for good cause finds (and

incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” In this instance, the NRC finds, for good cause, that solicitation of public comment on this final rule is unnecessary. This final rule is limited to changes to implement the AFCA amendments to NRC’s PFCRA regulations. Public comments on these rule revisions could not result in changes to the revisions because the rule revisions implement statutory changes. Accordingly, seeking comment on these rule revisions would not be necessary and, therefore, is not required under the Administrative Procedure Act. For these same reasons, the NRC also finds good cause to waive the 30-day delay in the effective date under 5 U.S.C. 553(d).

IV. Section-by-Section Analysis

The following paragraphs describe the specific changes in this final rule:

Nomenclature Change

Throughout 10 CFR part 12, this final rule removes the title of the statute “Program Fraud Civil Remedies Act” and replaces it with the new name of the statute, “Administrative False Claims Act.”

10 CFR Part 13 Basis and purpose

This final rule revises the heading of 10 CFR part 13 from “Program Fraud Civil Remedies” to “Administrative Remedies for False Claims and Statements.”

Section 13.1 Basis and purpose

This final rule replaces the reference to “Program Fraud Civil Remedies Act” with the new name of the statute, “Administrative False Claims Act.”

Section 13.2 Definitions

This final rule revises the definition for “Claim” to include any request, demand, or submission made to the authority which has the effect of concealing or improperly avoiding or decreasing an obligation to pay or transmit property, services, or money. This final rule also adds a definition for “Obligation,” which was previously undefined in the PFCRA, to mean an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment.

Section 13.3 Basis for civil penalties and assessments

This final rule adds § 13.3(f) which states that for purposes of determining AFCA liability for a false claim or statement submitted to the Government, materiality shall be determined in the same manner as under the False Claims Act, 31 U.S.C. 3729, which defines material to mean having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

Section 13.4 Investigation

This final rule replaces the reference to “Program Fraud Civil Remedies Act” in § 13.4(b) with the new name of the statute, “Administrative False Claims Act.”

Section 13.6 Prerequisites for issuing a complaint

This final rule replaces the \$150,000 amount listed in § 13.6(a)(2) with \$1,000,000, the expanded recovery amount available to agencies who pursue a false claim or statement under the AFCA. This final rule also corrects, i.e., retitles, the typographical error in the section heading of § 13.6, from “Prerequisites” to “Prerequisites.”

Section 13.45 Deposit in Treasury of United States

This final rule renames § 13.45 from “Deposit in Treasury of United States” to “Recovery of Costs and Deposit in Treasury of United States,” to reflect the updates made by the AFCA.

This rule also replaces the language in § 13.45 to include the statutory language in the AFCA, which states that any amount collected for AFCA liability shall be credited first to reimburse the authority or other Federal entity that expended costs in support of the investigation or prosecution of the action, including any court or hearing costs, and any amount remaining after reimbursements shall be deposited as miscellaneous receipts in the U.S. Treasury, except as provided in 31 U.S.C. 3806(g).

Section 13.46 Compromise or settlement

This final rule adds a new sentence to § 13.46(b) which states that before compromising or settling a case under part 13, a reviewing official shall notify the Attorney General in writing not later than 30 days before entering any agreement to compromise or settle allegations under part 13 and before the date on which the reviewing official is permitted to refer AFCA allegations of liability to a presiding officer. This final rule also corrects the typographical errors in § 13.46(c) and (d), from “pendancy” to “pendency.”

Section 13.47 Limitations

This final rule revises the language relating to the statute of limitations for an AFCA case in § 13.47(a) and (b). Specifically, this final rule revises the limitations language in § 13.47(a) to state that a notice to the person alleged to be liable under part 13 with respect to a claim or statement shall be served in the manner specified in § 13.8 not later than the later of 6 years after the date on which the violation is committed; or 3 years after the date on which facts material to the action are known or reasonably should have been known by the authority head, but in no event more than 10 years after the date on which the violation is committed. The final rule also adds language from the statute in § 13.47(b) that states that a civil action to recover a penalty or assessment under this part shall be commenced within 3 years after the date on which the determination of liability for such penalty or assessment becomes final.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to regulations for which a Federal agency is not required by law, including the rulemaking provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), to publish a general notice of proposed rulemaking (5 U.S.C. 604). As discussed in this document under Section III, "Rulemaking Procedure," the NRC is not publishing this final rule for notice and comment. Accordingly, the NRC has determined that the requirements of the Regulatory Flexibility Act do not apply to this final rule.

VI. Regulatory Analysis

A regulatory analysis has not been prepared for this final rule. As discussed in this document under Section III, "Rulemaking Procedure," the AFCA requires that the NRC perform this rulemaking to align the NRC's regulations with the AFCA amendments. This final rule does not involve an exercise of Commission discretion. Direct monetary impacts fall only upon those licensees or persons subjected to liability pursuant to the provisions of the AFCA (31 U.S.C. 3801– 3812) and the NRC's implementing regulations (10 CFR part 13).

VII. Backfitting and Issue Finality

The NRC has not prepared a backfit analysis for this final rule. This final rule does not involve any provision that would impose a backfit, nor is it inconsistent with any issue finality provision, as those terms are defined in 10 CFR chapter I. The changes in this final rule update the NRC's regulations to implement statutory changes in the AFCA to align the NRC's regulations with the AFCA amendments. The final rule does not modify any licensee systems, structures, components, designs, approvals, or procedures required for the construction or operation of any facility.

VIII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain Language in Government Writing," published June 10, 1998 (63 FR 31885).

IX. National Environmental Policy Act

The NRC has determined that this final rule is the type of action described in 10 CFR 51.22(c)(1) that is categorically excluded from environmental review. Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

X. Paperwork Reduction Act

This final rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

XI. Regulatory Planning and Review

Executive Order (E.O.) 12866, as amended by E.O. 14215, provides that the Office of Information and Regulatory Affairs (OIRA) will determine whether a regulatory action is significant as defined by E.O. 12866 and will review all significant regulatory actions. OIRA determined that this final rule is not a significant regulatory action under E.O. 12866.

XII. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

List of Subjects

10 CFR Part 12

Adversary adjudications, Award, Claims, Equal access to justice, Final disposition, Fraud, Net worth, Party, Penalties.

10 CFR Part 13

Administrative practice and procedure, Claims, Fraud, Organization and functions (Government agencies), Penalties.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC amends 10 CFR parts 12 and 13 as set forth below:

PART 12—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

1. The authority citation for part 12 continues to read as follows:

Authority: 5 U.S.C. 504(c)(1).

§ 12.101 [Amended]

2. In § 12.101, remove the term “Program Fraud Civil Remedies Act” and add in its place the term “Administrative False Claims Act”.

§ 12.103 [Amended]

3. In § 12.103, remove the term “Program Fraud Civil Remedies Act” and add in its place the term “Administrative False Claims Act”.

PART 13—ADMINISTRATIVE REMEDIES FOR FALSE CLAIMS AND STATEMENTS

4. The authority citation for part 13 continues to read as follows:

Authority: 31 U.S.C. 3801 through 3812; 44 U.S.C. 3504 note.

Section 13.3 also issued under 28 U.S.C. 2461 note.

Section 13.13 also issued under 31 U.S.C. 3730.

5. Revise the heading of part 13 to read as set forth above.

§ 13.1 [Amended]

6. In § 13.1(a), remove “Program Fraud Civil Remedies Act of 1986, Public Law No. 99-509, §§ 6101-6104, 100 Stat. 1874 (October 21, 1986)” and add in its place “Administrative False Claims Act of 2023”.

7. In § 13.2:

- a. Revise the definition of “Claim”; and
- b. Add the definition of “Obligation” in alphabetical order.

The revision and addition read as follows:

§ 13.2 Definitions.

* * * * *

Claim means any request, demand, or submission—

(1) Made to the authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(2) Made to a recipient of property, services, or money from the authority or to a party to a contract with the authority—

(i) For property or services if the United States—

(A) Provided such property or services;

(B) Provided any portion of the funds for the purchase of such property or services; or

(C) Will reimburse such recipient or party for the purchase of such property or services;

or

(ii) For the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(A) Provided any portion of the money requested or demanded; or

(B) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(3) Made to the authority which has the effect of concealing or improperly avoiding or decreasing an obligation to pay or transmit property, services, or money.

* * * * *

Obligation means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment.

* * * * *

8. In §13.3, add paragraph (f) to read as follows:

§ 13.3 Basis for civil penalties and assessments.

* * * * *

(f) For purposes of this section, materiality shall be determined in the same manner as under the False Claims Act, 31 U.S.C. 3729, which defines material to mean having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

§ 13.4 [Amended]

9. In § 13.4(b), remove the reference “Program Fraud Civil Remedies Act” and add in its place “Administrative False Claims Act”.

§ 13.6 [Amended]

10. Amend § 13.6 by:

a. Removing “Prerequisites” and add in its place “Prerequisites” in the section heading;

and

b. Removing the amount “\$150,000” and add in its place “\$1,000,000” in paragraph (a)(2).

11. Revise § 13.45 to read as follows:

§ 13.45 Recovery of Costs and Deposit in Treasury of United States.

(a) Any amount collected under this part shall be credited first to reimburse the authority or other Federal entity that expended costs in support of the investigation or prosecution of the action, including any court or hearing costs.

(b) Any amount reimbursed under paragraph (a) of this section shall be deposited in the appropriations account of the authority or other Federal entity from which the costs described in paragraph (a) of this section were obligated, a similar appropriations account of the authority or other Federal entity; or if the authority or other Federal entity expended nonappropriated funds, another appropriate account; and remain available until expended.

(c) Any amounts remaining after reimbursements described in paragraph (a) of this section 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).

12. In § 13.46:

a. Revise paragraph (b); and

b. Amend paragraphs (c) and (d) by removing “pendancy” and adding in its place “pendency”, wherever it appears.

The revision reads as follows:

§ 13.46 Compromise or settlement.

* * * * *

(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. Before compromising or settling a case under this part, a reviewing official shall notify the Attorney General in writing not later than 30 days before entering into any agreement to compromise or settle allegations of

liability under this part and before the date on which the reviewing official is permitted to refer allegations of liability to a presiding officer.

* * * * *

13. In § 13.47, revise paragraphs (a) and (b) to read as follows:

§ 13.47 Limitations.

(a) A notice to the person alleged to be liable under this part with respect to a claim or statement shall be served in the manner specified in § 13.8 not later than the later of:

(1) 6 years after the date on which the violation is committed; or

(2) 3 years after the date on which facts material to the action are known or reasonably should have been known by the authority head, but in no event more than 10 years after the date on which the violation is committed.

(b) A civil action to recover a penalty or assessment under this part shall be commenced within 3 years after the date on which the determination of liability for such penalty or assessment becomes final.

* * * * *

Dated: July 15, 2025.

For the Nuclear Regulatory Commission.

Andrea Kock,

Acting Director, Office of Nuclear Material Safety and
Safeguards.

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