

## § 11.2

of the Federal Emergency Management Agency (FEMA).

### § 11.2 Delegations of authority.

Any and all claims that arise under subchapter III of chapter 83, chapter 87 and chapter 88 of title 5, the United States Code, the Retired Federal Employees Health Benefits Act (74 Stat. 849), the Panama Canal Construction Annuity Act (58 Stat. 257), and the Lighthouse Service Widow's Annuity Act (64 Stat. 465) shall be referred to the Director of the Bureau of Retirement and Insurance, Office of Personnel Management, for handling. The General Counsel, FEMA shall act on all other claims against FEMA for money and property.

### Subpart B—Administrative Claims Under Federal Tort Claims Act

#### § 11.10 Scope of regulation.

This regulation applies to claims asserted under the Federal Tort Claims Act against the Federal Emergency Management Agency (FEMA). It does not include any contractor with FEMA.

#### § 11.11 Administrative claim; when presented; appropriate FEMA office.

(a) For the purpose of this part, and the provisions of the Federal Tort Claims Act a claim is deemed to have been presented when FEMA receives, at a place designated in paragraph (b) or (c) of this section, an executed "Claim for Damage or Injury," Standard Form 95, or other written notification of an incident, accompanied by a claim for money damages in a sum certain for injury to or loss of property, for personal injury, or for death alleged to have occurred by reason of the incident. A claim which should have been presented to FEMA, but which was mistakenly addressed to or filed with another Federal agency, is deemed to be presented to FEMA as of the date that the claim is received by FEMA. If a claim is mistakenly addressed to or filed with FEMA, the claim shall forthwith be transferred to the appropriate Federal Agency, if ascertainable, or returned to the claimant.

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(b) Except as provided in paragraph (c) of this section, a claimant shall mail or deliver his or her claim to the Office of General Counsel, Federal Emergency Management Agency, Washington, DC, 20472.

(c) When a claim is for \$200 or less, does not involve a personal injury, and involves a FEMA regional employee, the claimant shall mail or deliver the claim to the Director of the FEMA Regional Office in which is employed the FEMA employee whose negligence or wrongful act or omission is alleged to have caused the loss or injury complained of. The addresses of the Regional Offices of FEMA are set out in part 2 of this chapter.

(d) A claim presented in compliance with paragraph (a) of this section may be amended by the claimant at any time prior to final FEMA action or prior to 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 his or her duly authorized agent or legal representative. Upon the timely filing of an amendment to a pending claim, FEMA shall have six months in which to make a final disposition of the claim as amended and the claimant's option under 28 U.S.C. 2675(a) shall not accrue until six months after the filing of an amendment.

[45 FR 15930, Mar. 12, 1980, as amended at 48 FR 6711, Feb. 15, 1983; 49 FR 33879, Aug. 27, 1984]

#### § 11.12 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 which is the subject of the claim, his or her authorized agent, or legal representative.

(b) A claim for personal injury may be presented by the injured person or, his or her 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 applicable State law.

(d) A claim for loss wholly 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. When an insurer presents a claim asserting the rights of a subrogee, he or she shall present with the claim appropriate evidence that he or she 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 of legal capacity of the person signing, and be accompanied by evidence of his or her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative.

#### § 11.13 Investigations.

FEMA may investigate, or may request any other Federal agency to investigate, a claim filed under this part.

#### § 11.14 Administrative claim; 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 cause of death, date of death, and age of the decedent.

(2) Decedent's employment or occupation at time of death, including his or her monthly or yearly salary or earnings (if any), and the duration of his or her last employment or occupation.

(3) Full names, addresses, birth dates, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent for support on the decedent at the time of his or her death.

(4) Degree of support afforded by the decedent to each survivor dependent on him or her for support at the time of death.

(5) Decedent's general physical and mental condition before death.

(6) Itemized bills or medical and burial expenses incurred by reason of the incident causing death, or itemized receipts of payment for such expenses.

(7) If damages for pain and suffering before death are claimed, a physician's detailed statement specifying the inju-

ries suffered, duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition in the interval between injury and death.

(8) Any other evidence or information which may have a bearing on either the responsibility of the United States for the death or the amount of damages claimed.

(b) *Personal injury.* In support of a claim for personal injury, including pain and suffering, the claimant may be required to submit the following evidence or information:

(1) A written report by his or her attending physician or dentist setting forth the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed by FEMA or another Federal agency. FEMA shall make available to the claimant a copy of the report of the examining physician on written request by the claimant, if he or she has, on request, furnished the report referred to in the first sentence of this subparagraph and has made or agrees to make available to FEMA any other physician's reports previously or thereafter made of the physical or mental condition which is the subject matter of the claim.

(2) Itemized bills for medical, dental, and hospital expenses incurred, or itemized receipts of payment of such expenses.

(3) If the prognosis reveals the necessity for future treatment, a statement of expected expenses for such treatment.

(4) If a claim is made for loss of time from employment, a written statement from the employer showing actual time lost from employment, whether he or she is a full- or part-time employee, and wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings actually lost.

(6) Any other evidence or information which may have a bearing on either the responsibility of the United States for