

## § 295.6

United States. This section provides a brief explanation of the claims process for claims other than subrogation claims. It is not intended to supersede the more specific regulations that follow and explain the claims process in greater detail. In order to obtain benefits under this legislation, a person must submit all Cerro Grande Fire related claims against the United States to FEMA. A person who elects to proceed under the CGFAA is barred from bringing a claim under the Federal Tort Claims Act or filing a civil action against the United States for damages resulting from the Cerro Grande Fire. Judicial review of our decisions under the CGFAA is available.

(b) The first step in the process is to file a Notice of Loss with OCGFC. OCGFC will provide the Claimant with a written acknowledgement that the claim has been filed and the claim number.

(c) Shortly thereafter, a Claims Reviewer will contact the Claimant to review the claim. The Claims Reviewer will help the Claimant formulate a strategy for obtaining any necessary documentation or other support. This assistance does not relieve the Claimant of his or her responsibility for establishing all elements of the Loss and the compensatory damages that are sought, including that the Cerro Grande Fire caused the Loss. After the Claimant has had an opportunity to discuss the claim with the Claims Reviewer, a Proof of Loss will be presented to the Claimant for signature. After any necessary documentation has been obtained and the claim has been fully evaluated, the Claims Reviewer will submit a report to the Authorized Official. The Claims Reviewer is responsible for providing an objective evaluation of the claim to the Authorized Official.

(d) The Authorized Official will review the report and determine whether compensation is due to the Claimant. The Claimant will be notified in writing of the Authorized Official's Determination. If the Claimant is satisfied with the decision payment will be made after the Claimant returns a completed Release and Certification Form. If the Claimant is dissatisfied with the Authorized Official's Deter-

## 44 CFR Ch. I (10-1-04 Edition)

mination an Administrative Appeal may be filed with the Director of OCGFC. If the Claimant remains dissatisfied after the appeal is decided, the dispute may be resolved through binding arbitration or heard in the United States District Court for the District of New Mexico.

### § 295.6 Partial payments.

OCGFC, on its own initiative, or in response to a request by a Claimant, may make one or more partial payments on the claim. A partial payment can be made if OCGFC has a reasonable basis to estimate the Claimant's damages. Acceptance of a partial payment in no way affects a Claimant's ability to pursue an Administrative Appeal of the Authorized Official's Determination or to pursue other rights afforded by the CGFAA. Partial payment decisions cannot be appealed.

### § 295.7 Authority to settle or compromise claims.

Notwithstanding any other provision of these regulations, the Director of OCGFC may extend an offer to settle or compromise a claim or any portion of a claim, which if accepted by the Claimant will be binding on the Claimant and on the United States, except that the United States may recover funds improperly paid to a Claimant due to fraud or misrepresentation on the part of the Claimant or the Claimant's representative, a material mistake on our part or the Claimant's failure to cooperate in an audit as required by § 295.35.

## Subpart B—Bringing a Claim Under the CGFAA

### § 295.10 Bringing a claim under the CGFAA.

(a) Any Injured Person may bring a claim under the CGFAA by filing a Notice of Loss. A claim submitted on any form other than a Notice of Loss will not be accepted. The Claimant must provide a brief description of each Loss on the Notice of Loss.

(b) A single Notice of Loss may be submitted on behalf of a Household containing Injured Persons provided