

§ 1261.110

(c) *Limitation on agent or attorney fees.* No more than 10 per centum of the amount paid in settlement of each individual claim submitted and settled shall be paid or delivered to or received by an agent or attorney on account of services rendered in connection with that claim, any contract to the contrary notwithstanding (31 U.S.C. 243).

§ 1261.110 Settlement of claims.

(a) *Settlement officials.* (1) Claims in the amount of \$5,000 or more will be acted upon by the General Counsel. Claims less than \$5,000 will be acted upon by the Chief Counsel of the NASA Field Installation where the employee was assigned at the time of the loss or damage or the Assistant General Counsel for Litigation for NASA Headquarters claims.

(2) Claims arising for \$5,000 or more shall be investigated by the Chief Counsel or Assistant General Counsel for Litigation, as appropriate, and a report and recommendation thereon shall be forwarded to the General Counsel.

(b) *Action by settlement official.* (1) For each claim, the settlement official shall complete a report in duplicate on NASA Form 1204 and retain a claim file consisting of the original claim, the report, and any other relevant evidence or documents.

(2) When a claim is allowed in an amount acceptable to the claimant, the settlement official shall prepare a "Voucher for Payment of Employees' Personal Property Claims" (NASA Form 1220), have it properly executed by the claimant, and forward it with a copy of the approved claim (NASA Form 1204) to the appropriate NASA fiscal or financial management office for payment.

(3) When a claim is disallowed or is partially allowed in an amount unacceptable to the claimant, the settlement official shall notify the claimant in writing of the action taken and the reasons therefor. If not satisfied with the action taken, the claimant may, within 60 days after receipt of such notice, request reconsideration of the claim and may submit any new evidence that he/she feels to be pertinent to the claim. If such a claim has been disallowed at the field installation level, the claimant may request recon-

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sideration by the field installation, or by the General Counsel, or both.

(c) *Final and conclusive.* The settlement of a claim under this subpart, whether by full or partial allowance or disallowance, is final and conclusive.

Subpart 1261.2 [Reserved]

Subpart 1261.3—Claims Against NASA or Its Employees for Damage to or Loss of Property or Personal Injury or Death—Accruing On or After January 18, 1967

AUTHORITY: 28 U.S.C. 2671-2680, 42 U.S.C. 2473(c)(13), and 28 CFR part 14.

§ 1261.300 Scope of subpart.

This subpart sets forth the procedures for:

(a) The submission of, and action by NASA upon, claims against the United States arising out of the activities of NASA for damage to or loss of property or personal injury or death, and designates the NASA officials authorized to act upon such claims.

(b) The handling of lawsuits against NASA employee(s) for damage to or loss of property or personal injury or death resulting from a NASA employee's activities within the scope of his/her office or employment.

§ 1261.301 Authority.

(a) Under the provisions of the Federal Tort Claims Act, as amended (see 28 U.S.C. 2671-2680), and subject to its limitations, the Administrator or designee is authorized to consider, ascertain, adjust, determine, compromise, and settle any claim for money damages against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any NASA employee while acting within the scope of his/her office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. In exercising such authority, the Administrator or designee is required to act

in accordance with regulations prescribed by the Attorney General (28 CFR part 14). An award, compromise, or settlement in excess of \$25,000 may be effected only with the prior written approval of the Attorney General or designee.

(b) Under sec. 203(c)(13)(A) of the National Aeronautics and Space Act of 1958, as amended, 42 U.S.C. 2473(c)(13)(A), NASA is authorized to consider, ascertain, adjust, determine, settle, and pay, on behalf of the United States, in full satisfaction thereof, any claim for \$25,000 or less against the United States for bodily injury, death or damage to or loss of real or personal property resulting from the conduct of NASA's functions as specified in 42 U.S.C. 2473(a). At the discretion of NASA, a claim may be settled and paid under this authority even though the United States could not be held legally liable to the claimant.

(c) Under 42 U.S.C. 2473(c)(13)(B), if NASA considers that a claim in excess of \$25,000 is meritorious and would otherwise be covered by 42 U.S.C. 2473(c)(13)(A), NASA may report the facts and circumstances of the claim to the Congress for its consideration or to the Comptroller General as provided in the "Supplemental Appropriations Act, 1978," Pub. L. 95-240 (92 Stat. 107), 31 U.S.C. 724a.

(d) Under 28 U.S.C. 2679, the Attorney General of the United States shall defend any civil action or proceeding brought in any court against a Government employee for injury or loss of property or personal injury or death, resulting from the operation of a motor vehicle by the Government employee while acting within the scope of office or employment. In effect, this legislation is designed to protect an employee driving a motor vehicle on Government business by converting such a civil court action or proceeding against the employee into a claim against the United States: Provided, That the employee was acting within the scope of employment at the time of the accident. The remedy against the United States provided by 28 U.S.C. 2672 (administrative adjustment of claims) and 28 U.S.C. 1346(b) (civil action against the United States) then becomes the plaintiff's exclusive remedy.

§ 1261.302 Claim.

Unless the context otherwise requires, *claim* means a claim for money damages against the United States arising out of the activities of NASA, for injury or loss of property, or personal injury or death. A claim "arises" at the place where the injury, loss, or death occurs.

§ 1261.303 Claimant.

(a) A claim for damage to or loss of property may be presented by the owner of the property, duly authorized agent or legal representative.

(b) A claim for personal injury may be presented by the injured person, duly authorized agent, or legal representative.

(c) A claim based on death may be presented by the executor(rix) or administrator(rix) of the decedent's estate, or by any other person legally entitled to assert such a claim in accordance with 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. A claim for loss partially compensated by an insurer with the rights of a subrogee may be presented by the parties individually as their respective interests appear, or jointly.

(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 or legal capacity of the person signing and be accompanied by evidence of the agent's or legal representative's authority to present a claim on behalf of the claimant as agent, executor(rix), administrator(rix), parent, guardian, or other representative.

§ 1261.304 Place of filing claim.

A claim arising in the United States should be submitted to the Chief Counsel of the NASA Installation whose activities are believed to have given rise to the claimed injury, loss, or death. If the identity of such installation is not known, or if the claim arose in a foreign country, the claim should be submitted to the General Counsel, National Aeronautics and Space Administration, Washington, DC 20546.