

### § 15.3

(c) *Act* means the Federal Tort Claims Act, as amended, (28 U.S.C. 1346(b), 28 U.S.C. 2671, et seq.).

#### § 15.3 Administrative claim; who may file.

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

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

(c) A claim for 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 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 insurer or the insured individually, as their respective interests appears, or jointly. Whenever an insurer presents a claim asserting the rights of a subrogee, it shall present with its claim appropriate evidence that it 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 representative, show the title or 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 legal representative.

#### § 15.4 Administrative claim; where to file.

(a) For the purposes of this subpart, a claim shall be deemed to have been presented when the Department receives, at a place designated in paragraph (b) of this section, a properly executed "Claim for Damage, Injury, or Death" on 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 or personal injury or death by reason of the incident.

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(b) In any case where the claim seeks damages in excess of \$25,000 or which involves an alleged act or omission of an employee of the Department whose official duty station is in Washington, D.C., a claimant shall mail or deliver his or her claim for money damages for injury to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Department while acting within the scope of his or her office or employment hereunder to the Council for Claims and Compensation, Office of the Solicitor of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW., Suite S4325, Washington, DC 20210.

(c) In all other cases, the claimant shall address his or her claim to the official duty station of the employee whose act or omission forms the basis of the complaint.

#### § 15.5 Administrative claim; evidence or information to substantiate.

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

(1) A written report by the attending physician or dentist setting forth the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent impairment, the prognosis, period of hospitalization, if any, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed or designated by the Department or another federal agency. A copy of the report of the examining physician shall be made available to the claimant upon the claimant's written request: *Provided*, That he or she has, upon request, furnished the report referred to in the first sentence of this subparagraph and has made, or agrees to make available to the Department, any other physician's report 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, or any other, expenses incurred or itemized receipts of payment for 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 his or her 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 lost. For example, income tax returns for several years prior to the injury in question and the year in which the injury occurred may be used to indicate or measure lost income; a statement of how much it did or would cost the claimant to hire someone else to do the same work he or she was doing at the time of injury might also be used in measuring lost income.

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

(b) *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 the 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 name, address, birth date, kinship and marital status of the decedent's survivors, including identification of those survivors who were dependent for support upon the decedent at the time of his or her death.

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

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

(6) Itemized bills for 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 prior to death are claimed, a physician's detailed statement specifying the injuries 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 damages claimed.

(c) *Property damages.* In support of a claim for injury to or loss of property, real or personal, the claimant may be required to submit the following evidence or information with respect to each item of property:

(1) Proof of ownership.

(2) A detailed statement of the amount claimed.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price, and salvage value where repair is not economical.

(5) Any other evidence or information which may have a bearing on either the responsibility of the United States for the injury to or loss of property or the damages claimed.

#### § 15.6 Administrative action.

(a) *Investigation.* When an organizational unit learns of an incident that reasonably can be expected to result in an allegation of harm caused to an individual or organization by an alleged negligent act or omission by an employee of that organizational unit or when it learns of an administrative claim or of litigation alleging such harm, it has the responsibility to fully investigate the incident and to take all actions necessary to preserve all relevant documents and other evidence. Each organizational unit should institute appropriate procedures to ensure that notification of such incidents are reported to the office responsible for ensuring that evidence is preserved and investigation undertaken.

(b) *Notification.* Upon receipt of an administrative claim under the Act or of notice of litigation seeking damages