

§2.3

damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing and sent by certified or registered mail. The failure of an agency to make final disposition of a claim within 6 months after it is filed shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim for purposes of this section. The provisions of this subsection shall not apply to such claims as may be asserted under the Federal Rules of Civil Procedure by third party complaint, crossclaim, or counterclaim.

(c) Section 2678 of said Title 28 provides that no attorney shall charge fees in excess of 25 percent of a judgment or settlement after litigation, or over 20 percent of administrative settlements.

(d) Section 2401(b) of said Title 28 provides that:

A tort claim against the United States shall be forever barred unless it is presented in writing to the appropriate Federal agency within 2 years after such claim accrues or unless action is begun within 6 months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the agency to which it was presented.

(e) Pursuant to section 2672 as amended, the Attorney General has issued regulations (herein referred to as "the Regulations"; 28 CFR Part 14) prescribing standards and procedures for settlement of tort claims (31 FR 16616). Persons delegated authority under this part shall follow and be guided by such Regulations (28 CFR Part 14).

[32 FR 3769, Mar. 7, 1967, as amended at 63 FR 29945, June 2, 1998]

§2.3 Delegation of authority.

(a) The General Counsel is hereby named as the designee of the Secretary of Commerce with respect to tort claims filed under section 2672 of Title 28, U.S. Code, as described in §2.2, with authority to act on such claims as provided in said section 2672, including denial thereof.

(b) Authority delegated under this section may, with the approval of the General Counsel, be redelegated to other designees.

(c) Settlement or denial of any claim under this part is final for the Department of Commerce.

[48 FR 31636, July 11, 1983]

§2.4 Procedure for filing claims.

(a) The procedure for filing and the contents of claims shall be pursuant to §§14.2, 14.3, and 14.4 of the Regulations (28 CFR Part 14).

(b) Claims shall be filed with the Assistant General Counsel for Finance and Litigation, Department of Commerce, Washington, D.C. 20230.

(c) If a claim is filed elsewhere in the Department, it shall immediately be recorded and transmitted to the Assistant General Counsel for Finance and Litigation.

[32 FR 3769, Mar. 7, 1967, as amended at 48 FR 31636, July 11, 1983; 63 FR 29945, June 2, 1998]

§2.5 Adjudication and settlement of claims.

(a) Upon receipt of a claim by the Assistant General Counsel for Finance and Litigation, the time and date of receipt shall be recorded. The Assistant General Counsel may, after recording the claim, transmit it to the Departmental office or primary operating unit involved in the claim and request that an investigation be conducted. The appropriate Departmental office or primary operating unit shall designate an official to conduct the investigation, who shall prepare a file, obtain additional information as necessary, and prepare for the Assistant General Counsel's signature a proposed award or denial of the claim. If the investigation capabilities of the office or unit are insufficient for a proper and complete investigation, the office or unit shall consult with the Departmental Office of Investigations and Security to:

(1) Have that Office conduct the investigation or

(2) Request another Federal agency to conduct the investigation as necessary, pursuant to §14.8 of the regulations (28 CFR Part 14), all on a reimbursable basis.

(b) If the amount of the proposed award exceeds \$25,000 (in which case,