

## § 21.5

this paragraph, and include the statement that the amortization period for any substantial improvement located on the site shall be limited to the period to which the transferor would have been entitled under the regulations in this part.

(6) Nonuse of a site for a period of more than 2 consecutive calendar years shall terminate the permit without right of renewal (subject to the specific terms of the permit): *Provided, however*, That where the nonuse is the result of the death, illness, or military service of the permittee the Authorized Officer may waive such nonuse. In such case, sale or transfer of the improvement may be made for the unexpired portion of the permit and subject to the provisions for amortization set forth in this section. The Authorized Officer may make exceptions to this termination provision in any case where he determines that the needs of the general public so require (see introductory text of this paragraph (b)). All permits renewed, or extended after the effective date of this part shall state the requirements of this paragraph.

### **§ 21.5 Occupancy under permit of Government-owned cabins on public recreation and conservation areas.**

(a) Those permittees who occupy Government-owned cabins, including those whose permits currently have expired, but previously have been renewed on a year-to-year basis, may have their permits renewed up to July 1, 1969. After that date, the permits shall not be renewed and shall be terminated finally except upon a determination by the Authorized Officer that a renewal or extension is fully consistent with the public use of the area.

(b) The provisions for amortization of substantial improvements do not apply to this type of occupancy.

### **§ 21.6 Cabin site occupancy where a recreation or conservation area has been leased to, or turned over to, another Federal or non-Federal public agency for administration.**

(a) After the effective date of this part, any agreement whereby a recreation or conservation area is leased or turned over to another Federal or non-Federal public agency for administra-

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tion, shall include the requirement that any permits to individuals, groups or others issued or extended by another Federal or non-Federal public agency to whom an area has been leased or transferred for administration, shall comply with, and set forth on the face of the permit, the requirements stated in this part. Similar requirements shall be applied in situations where an existing agreement reserves such authority to this Department.

(b) All such arrangements between another public agency and a permittee (see § 21.2) shall be reviewed by the Authorized Officer to assure full compliance with those provisions of the permit which are designed to assure performance in the best interests of the general public.

(c) Renewals, extensions, or new leases or transfers to other Federal, State, or local agencies for administration of public recreation areas, shall be granted only pursuant to the policies set forth in this part, and only upon an affirmative finding by the Authorized Officer that they are fully consistent with present and future public uses. All applicable safeguards set forth in this part, including the protection of future public uses, shall be expressly incorporated into such leases or transfers.

### **§ 21.7 Occupancy by trespassers.**

Occupants of cabin sites who do not hold a valid permit for the occupancy or use of the site, shall be required to surrender occupancy, failing which legal action shall be taken. Nothing herein shall grant any rights to a trespasser.

### **§ 21.8 Appeals.**

Any determination made pursuant to any of the provisions of this part may be appealed to the Director, Office of Hearings and Appeals, in accordance with the general rules set forth in subpart B of part 4 of this title and the special procedural rules in subpart G of part 4 of this title, applicable to proceedings in appeals cases which do not lie within the appellate jurisdiction of an established Appeals Board of the Office of Hearings and Appeals.

[36 FR 7206, Apr. 15, 1971]

**PART 22—ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT AND INDEMNIFICATION OF DEPARTMENT OF THE INTERIOR EMPLOYEES**

**Subpart A—Administrative Tort Claims**

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**Subpart B—Indemnification of Department of the Interior Employees**

22.6 Policy.

AUTHORITY: 28 U.S.C. 2671–2680; 5 U.S.C. 301.

SOURCE: 32 FR 6683, May 2, 1967, unless otherwise noted.

**Subpart A—Administrative Tort Claims**

**§ 22.1 Purpose.**

(a) The purpose of this part is to establish procedures for the filing and settlement of claims accruing on and after January 18, 1967, under the Federal Tort Claims Act (in part, 28 U.S.C. 2401(b), 2671–2680, as amended by Pub. L. 89–506, 80 Stat. 306).

(b) [Reserved]

[32 FR 6683, May 2, 1967, as amended at 47 FR 38329, Aug. 31, 1982]

**§ 22.2 Provisions of law and regulations thereunder.**

(a) Section 2672 of title 28 U.S. Code, as above amended, provides that:

The head of each Federal agency or his designee, in accordance with regulations prescribed by the Attorney General, may consider, ascertain, adjust, determine, compromise, and settle any claim for injury or death caused by the negligent or wrongful act or omission of any employee of the agency while acting within the scope of his 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: *Provided*, That any award, compromise, or settlement in excess of \$25,000 shall be effected only with the prior written approval of the Attorney General or his designee.

Subject to the provisions of this title relating to civil actions on tort claims against the United States, any such award, compromise, settlement, or determination shall be final and conclusive on all officers of the Government, except when procured by means of fraud.

Any award, compromise, or settlement in an amount of \$2,500 or less made pursuant to this section shall be paid by the head of the Federal agency concerned out of appropriations available to that agency. Payment of any award, compromise, or settlement in an amount in excess of \$2,500 made pursuant to this section or made by the Attorney General in any amount pursuant to section 2677 of this title shall be paid in a manner similar to judgments and compromises in like causes and appropriations or funds available for the payment of such judgments and compromises are hereby made available for the payment of awards, compromises, or settlements under this chapter.

The acceptance by the claimant of any such award, compromise, or settlement shall be final and conclusive on the claimant, and shall constitute a complete release of any claim against the United States and against the employee of the Government whose act or omission gave rise to the claim, by reason of the same subject matter.

(b) Subsection (a) of section 2675 of said title 28 provides that:

An action shall not be instituted upon a claim against the United States for money damages for 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 any 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, cross-claim, or counter-claim.

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

(d) Subsection (b) of section 2679 of said title 28 provides that tort remedies against the United States resulting from the operation of any employee of