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- (iii) Claims for damage caused by willful misconduct;
- (iv) Intellectual property claims;
- (v) Claims for damages resulting from a failure of a Party to extend the cross-waiver of liability to its related entities, pursuant to paragraph (c)(2) of this section; or

(vi) Claims by a Party arising out of or relating to another Party's failure to perform its obligations under the agreement.

(5) Nothing in this section shall be construed to create the basis for a claim or suit where none would otherwise exist.

(6) This cross-waiver shall not be applicable when 49 U.S.C. Subtitle IX, Chapter 701 is applicable.

PART 1267—GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

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- 1267.640 Employee.
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- 1267.650 Grant.
- 1267.655 Individual.
- 1267.660 Recipient.
- 1267.665 State.
- 1267.670 Suspension.

AUTHORITY: 41 U.S.C. 701 *et seq.*; 42 U.S.C. 2473c.

SOURCE: 68 FR 66557, 66575, Nov. 26, 2003, unless otherwise noted.

Subpart A—Purpose and Coverage

§ 1267.100 What does this part do?

This part carries out the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 *et seq.*, as amended) that applies to grants. It also applies the provisions of the Act to cooperative agreements and other financial assistance awards, as a matter of Federal Government policy.

§ 1267.105 Does this part apply to me?

- (a) Portions of this part apply to you if you are either—
 - (1) A recipient of an assistance award from NASA; or
 - (2) A(n) NASA awarding official. (See definitions of award and recipient in §§ 1267.605 and 1267.660, respectively.)

(b) The following table shows the subparts that apply to you:

If you are . . .	see subparts . . .
(1) A recipient who is not an individual	A, B and E.
(2) A recipient who is an individual	A, C and E.
(3) A(n) NASA awarding official	A, D and E.

§ 1267.110 Are any of my Federal assistance awards exempt from this part?

This part does not apply to any award that the Assistant Administrator for Procurement determines that the application of this part would be inconsistent with the international obligations of the United States or the laws or regulations of a foreign government.

§ 1267.115 Does this part affect the Federal contracts that I receive?

It will affect future contract awards indirectly if you are debarred or suspended for a violation of the requirements of this part, as described in §1267. 510(c). However, this part does not apply directly to procurement contracts. The portion of the Drug-Free Workplace Act of 1988 that applies to Federal procurement contracts is carried out through the Federal Acquisition Regulation in chapter 1 of Title 48 of the Code of Federal Regulations (the drug-free workplace coverage currently is in 48 CFR part 23, subpart 23.5).

Subpart B—Requirements for Recipients Other Than Individuals

§ 1267.200 What must I do to comply with this part?

There are two general requirements if you are a recipient other than an individual.

(a) First, you must make a good faith effort, on a continuing basis, to maintain a drug-free workplace. You must agree to do so as a condition for receiving any award covered by this part. The specific measures that you must take in this regard are described in more detail in subsequent sections of this subpart. Briefly, those measures are to—

- (1) Publish a drug-free workplace statement and establish a drug-free

awareness program for your employees (see §§1267.205 through 1267.220); and

(2) Take actions concerning employees who are convicted of violating drug statutes in the workplace (see §1267.225).

(b) Second, you must identify all known workplaces under your Federal awards (see §1267.230).

§ 1267.205 What must I include in my drug-free workplace statement?

You must publish a statement that—

(a) Tells your employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in your workplace;

(b) Specifies the actions that you will take against employees for violating that prohibition; and

(c) Lets each employee know that, as a condition of employment under any award, he or she:

(1) Will abide by the terms of the statement; and

(2) Must notify you in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace and must do so no more than five calendar days after the conviction.

§ 1267.210 To whom must I distribute my drug-free workplace statement?

You must require that a copy of the statement described in §1267.205 be given to each employee who will be engaged in the performance of any Federal award.

§ 1267.215 What must I include in my drug-free awareness program?

You must establish an ongoing drug-free awareness program to inform employees about—

(a) The dangers of drug abuse in the workplace;

(b) Your policy of maintaining a drug-free workplace;