

## § 1262.308

the court on the appeal or until the underlying merits of the case have been finally determined pursuant to the appeal.

[51 FR 15311, Apr. 23, 1986, as amended at 60 FR 12669, Mar. 8, 1995]

### § 1262.308 Agency review.

(a) Within 30 calendar days of the receipt of the adjudicative officer's initial decision on the fee application, either the applicant or agency counsel may seek Agency review of the decision; or, the NASA Administrator, upon the recommendation of the General Counsel or other designee, may decide to review the decision based on the record. Whether to review a decision is solely a matter within the discretion of the NASA Administrator. A 15-day notice of such review will be given the applicant and agency counsel, and a determination made not later than 45 days from the date of notice. The Administrator may make a final determination concerning the application or remand the application to the adjudicative officer for further proceedings.

(b) If neither the applicant nor agency counsel seek review, and the NASA Administrator does not on own initiative take a review, the adjudicative officer's initial decision on the fee application shall be the final administrative decision of the Agency 45 days after it is issued.

### § 1262.309 Judicial review.

Judicial review of final Agency decisions on awards may be sought under 5 U.S.C. 504(c)(2), which provides: If a party other than the United States is dissatisfied with a determination of fees and other expenses made under [this part], that party may, within 30 days after the [final administrative] determination is made, appeal the determination to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adversary adjudication. The court's determination of any appeal heard under this [authority] shall be based solely on the factual record made before the agency. The court may modify the determination of fees and other expenses only if the court finds that the failure to make an award of fees and other expenses, or the calculation

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of the amount of the award, was unsupported by the substantial evidence.

[51 FR 15311, Apr. 23, 1986, as amended at 60 FR 12669, Mar. 8, 1995]

### § 1262.310 Payment of award.

(a) An applicant seeking payment of an award shall submit to the paying agency a copy of the Agency's final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. The submission to NASA should be addressed as follows:

Director, Financial Management Division,  
NASA Headquarters, Washington, DC 20546.

(b) The Agency will pay the amount awarded to the applicant within 60 days, if feasible, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

## PART 1263—DEMAND FOR INFORMATION OR TESTIMONY SERVED ON AGENCY EMPLOYEES; PROCEDURES

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AUTHORITY: 5 U.S.C. 301, 42 U.S.C. 2473(c)(1).

SOURCE: 55 FR 28370, July 11, 1990, unless otherwise noted.