

## § 15.26

preclude reasonable filing of such a claim or diligent prosecution, or the evidence indicates a demand was impracticable or would have been unavailing.

(d) Following the submission of the claim against the carrier or insurer, the claimant may immediately submit his claim against the Government in accordance with the provisions of this subpart, without waiting until either final approval or denial of the claim is made by the carrier or insurer.

(1) Upon submitting his or her claim, the claimant shall certify in his claim that he or she has or has not gained any recovery from a carrier or insurer, and enclose all correspondence pertinent thereto.

(2) If final action has not been taken by the carrier or insurer on the claim, the claimant shall immediately notify them to address all correspondence in regard to the claim to the appropriate Office of the Solicitor of Labor.

(3) The claimant shall advise the appropriate Office of the Solicitor of any action taken by the carrier or insurer on the claim and, upon request, shall furnish all correspondence, documents, and other evidence pertinent to the matter.

(e) The claimant shall assign to the United States, to the extent of any payment on the claim accepted by him or her, all rights, title and interest in any claim he or she may have against any carrier, insurer, or other party arising out of the incident on which the claim against the United States is based. After payment of the claim by the United States, the claimant shall, upon receipt of any payment from a carrier or insurer, pay the proceeds to the United States to the extent of the payment received by him or her from the United States.

(f) Where a claimant recovers for the loss from the carrier or insurer before his or her claim under this subpart is settled, the amount of recovery shall be applied to the claim as follows:

(1) When the amount recovered from a carrier, insurer, or other third party is greater than or equal to the claimant's total loss as determined under this part, no compensation is allowable under this subpart.

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(2) When the amount recovered is less than such total loss, the allowable amount is determined by deducting the recovery from the amount of such total loss.

(3) For this purpose, the claimant's total loss is to be determined without regard to the maximum payment limitations set forth in § 15.20. However, if the resulting amount, after making this deduction exceeds the maximum payment limitations, the claimant shall be allowed only the maximum amount set forth in § 15.20.

### § 15.26 Claims procedures.

(a) *Award.* The Counsel for Claims and Compensation, the Regional Solicitors, and the Associate Regional Solicitors are authorized to consider, ascertain, adjust, determine, compromise and settle claims filed under this subpart that arose within their respective jurisdictions, except that any claim for an amount in excess of \$25,000 shall fall within the exclusive jurisdiction of the Counsel for Claims and Compensation.

(b) *Form of claim.* Any writing received by the Office of the Solicitor within the time limits set forth in § 15.21(d) will be accepted and considered a claim under the Act if it constitutes a demand for compensation from the Department. A demand is not required to be for a specific sum of money.

(c) *Notification.* The determination upon the claim shall be provided to the claimant in writing by the deciding official.

### § 15.27 Computation of award and finality of settlement.

(a) The amount allowable for damage to or loss of any item of property may not exceed the lowest of:

(1) The amount requested by the claimant for the item as a result of its loss, damage or the cost of its repair;

(2) The actual or estimated cost of its repair; or

(3) The actual value at the time of its loss, damage, or destruction. The actual value is determined by using the current replacement cost or the depreciated value of the item since its acquisition, whichever is lower, less any salvage value of the item in question.