

more than 2 years after the good cause ceases to exist or the war or armed conflict ends. Congress or the President establishes the beginning and end of war or armed conflict.

§ 842.106 Who may file a claim.

The following individuals may file a claim under this subpart.

(a) Owners of the property or their authorized agents may file a claim for property damage.

(b) Injured persons or their authorized agents may file a claim for personal injury.

(c) Executors or administrators of a decedent's estate or any other person legally entitled to do so under applicable local law may file a claim based on:

(i) An individual's death.

(ii) A cause of action surviving an individual's death.

(d) Insurers with subrogation rights may file a claim for losses paid in full by them. The parties may file a claim jointly or individually, to the extent of each party's interest, for losses partially paid by insurers with subrogation rights.

(e) Authorized agents signing a claim must show their title or legal capacity and present evidence of such authority to file the claim.

§ 842.107 Who are proper claimants.

Only certain individuals are proper claimants under this subpart. Proper claimants include:

(a) Citizens and inhabitants of the United States.

(b) States or territories and their agencies, unless it is the state of the ANG member who caused the injury or property damage.

(c) Counties, municipalities, or units of local government, unless they are in the state of the ANG member who caused the injury or property damage.

(d) Persons in foreign countries who are not inhabitants of a foreign country.

(e) Property owners, their representatives, and those with certain legal relationships with the record owner, including mortgagors, mortgagees, trustees, bailees, lessees and conditional vendees.

(f) Subrogees, to the extent they have paid the claim.

§ 842.108 Who are not proper claimants.

The following individuals are not proper claimants:

(a) ANG members performing duty under 32 U.S.C. when the personal injury or death claim arises incident to service.

(b) Agencies and departments of the U.S. Government including the District of Columbia government.

(c) Federal nonappropriated fund instrumentalities.

(d) Governments of foreign nations, their agencies, political subdivisions, and municipalities.

(e) The state territory, local government unit, or their agencies, whose ANG member caused the injury or property damage.

(f) Subrogees of all the above.

§ 842.109 Claims payable.

(a) Claims arising from noncombat activities of ANG members performing duty under 32 U.S.C and acting within the scope of their employment, whether or not such injuries or damages arose out of their negligent or wrongful acts or omissions.

(b) Claims are payable if they are for damage to bailed property under § 842.109(a) of this part where:

(1) The ANG assumed the duties of a bailee.

(2) The bailor did not assume the risk of loss by express agreement.

(3) Authorized ANG members acting in their official capacity properly accepted the property.

(c) Claims are payable if they are for loss or damage to:

(1) Insured or registered mail, under § 842.109 (a) or (b) of this part while in the possession of the ANG.

(2) Minimum fee insured mail but only if it has an insurance number or requirement for hand-to-hand receipt and was lost or damaged while in the possession of the ANG.

(3) Any mail in the possession of the United States Postal Service or a Military Postal Service due to an unlawful or negligent inspection, search, or seizure in an oversea military postal facility, which was ordered by ANG members.

(d) Claims filed by ANG military or civilian health care providers or legal

personnel for their personal liability by settlement or judgement, to include reasonable costs of such litigation, for their common law tortious acts committed on or after 29 Dec 1981 while performing title 32 duty within the scope of their employment under the circumstances described in 10 U.S.C. 1089(f) and 10 U.S.C. 1054(f).

[55 FR 2809, Jan. 29, 1990, as amended at 55 FR 32077, Aug. 7, 1990]

§ 842.110 Claims not payable.

The following are not payable:

(a) Claims payable under any one of the following statutes and implementing regulations:

(1) The Federal Tort Claims Act (FTCA).

(2) The Foreign Claims Act (FCA).

(3) The International Agreements Claims Act.

(4) The Air Force Admiralty Claims Act and the Admiralty Extensions Act.

(5) The Military Claims Act (MCA).

(6) The Military Personnel and Civilian Employees' Claims Act.

(b) Claims from the combat activities of the armed forces during war or armed conflict.

(c) Claims for personal injury or death of ANG members performing duty under 32 U.S.C. incident to their service.

(d) Claims for damage to or loss of bailed property when the bailor specifically assumed such risk.

(e) Claims for personal injury or death of a person covered by:

(1) The Federal Employees' Compensation Act.

(2) The Longshore and Harbor Workers' Compensation Act.

(3) A United States contract or agreement providing employee benefits through insurance, local law, or custom and the United States pays for such benefits either directly or as a part of the consideration under the contract.

(f) Claims for property damage, personal injury or death occurring in a foreign country to an inhabitant of that country.

(g) Claims caused by the negligent or wrongful acts or omissions of members of the District of Columbia ANG.

(h) Claims arising from a private rather than a government transaction.

(i) Claims for patent or copyright infringement.

(j) Claims for damage, use, or other expenses involving the regular acquisition, possession, and disposition of real property by or for the ANG.

(k) Claims for the taking of private real property by a continuing trespass or by a technical trespass such as overflights of aircraft.

(l) Claims for loss of rental fee for personal property.

(m) Claims in litigation against the United States.

(n) Claims for a maritime occurrence covered under U.S. admiralty laws.

(o) Claims for:

(1) Any tax or customs duty.

(2) The detention of any goods or merchandise by any officer of customs, excise, or law enforcement officer.

(p) Claims from an act or omission of any employee of the Government while administering the provisions of the Trading With the Enemy Act.

(q) Claims for damages caused by the United States' imposition or establishment of a quarantine.

(r) Claims for libel, slander, misrepresentation, deceit or interference with contract rights.

(s) Claims that result wholly from the negligent or wrongful act of the claimant or the claimant's agent.

(t) Claims for reimbursement of medical, hospital, or burial expenses furnished at the expense of the United States, any state, the District of Columbia, or Puerto Rico.

(u) Claims for damage from floods or flood waters.

(v) Claims for damages caused by the fiscal operations of the Treasury or by regulation of the monetary system.

(w) Claims caused by the negligent or wrongful acts or omissions of ANG members acting within the scope of their employment, while performing duty under 32 U.S.C., on or after 29 December 1981.

(x) Claims caused by the negligent or wrongful acts or omissions of ANG technicians employed under 32 U.S.C. 709.

§ 842.111 Applicable law.

(a) *Extent of liability.* The following rules apply to determine the extent of liability of a claim.