

§ 842.137

32 CFR Ch. VII (7-1-99 Edition)

2727 LBJ Highway, Dallas TX 75266-0320.

(b) *Civilian base restaurants and civilian welfare NAFIs*: (1) For more than \$100: Army and Air Force Civilian Welfare Fund, Washington, DC 20310.

(2) For \$100 or less: The local NAFI giving rise to the claim.

(c) *All other NAFIs*: (1) For more than \$50: HQ AFMPC/DPMSCI, Randolph AFB TX 78150-6001.

(2) For \$50 or less: The local NAFI giving rise to the claim.

(d) *International agreement claims, all NAFIs*. When a receiving state pays a claim under an international agreement, the NAFI involved, upon receipt of an extract copy of the itemized bill, will forward payment of its pro rata share to the sending State office.

[55 FR 2809, Jan. 29, 1990, as amended at 56 FR 1574, Jan. 16, 1991]

Subpart P—Civil Air Patrol Claims
(5 U.S.C. 8101(1)(B), 8102(a), 8116(c), 8141; 10 U.S.C. 9441, 9442; 36 U.S.C. 201-208)

§ 842.137 Scope of this subpart.

This subpart explains how to process certain administrative claims:

(a) Against the United States for property damage, personal injury, or death, arising out of Air Force noncombat missions performed by the Civil Air Patrol (CAP), as well as certain other Air Force authorized missions performed by the CAP in support of the Federal government.

(b) In favor of the United States for damage to US Government property caused by CAP members or third parties.

§ 842.138 Definitions.

(a) *Civil Air Patrol (CAP)*. A federally chartered, non-profit corporation which was designated by Congress in 1948 as a volunteer civilian auxiliary of the Air Force.

(b) *Air Force noncombat mission*. Although not defined in any statute, an Air Force noncombat mission is any mission for which the Air Force is tasked, by statute, regulation, or higher authority, which does not involve actual combat, combat operations or combat training. The Air Force, in lieu

of using Air Force resources, can use the services of the Civil Air Patrol to fulfill these type missions. When performing an Air Force noncombat mission, the Civil Air Patrol is deemed to be an instrumentality of the United States. In order for a mission to be a noncombat mission of the Air Force under this part, it must either:

(1) Have a special Air Force mission order assigned, and, the Air Force must exercise operational control over the mission.

(2) Involve a peacetime mission the Air Force is tasked to perform by higher authority which requires the expenditure of Air Force resources to accomplish, and the Air Force specifically approves the mission as a noncombat mission, and assigns the mission to the Civil Air Patrol to perform.

(c) *CAP members*. CAP members are private citizens who volunteer their time, services, and resources to accomplish CAP objectives and purposes. The two primary categories of members are:

(1) *Cadets*. Youths, 13 years (or having satisfactorily completed the sixth grade) through 17 years of age, who meet such prerequisites as the CAP corporation may establish from time to time. Cadet status may be retained until age 21.

(2) *Seniors*. Adults, 18 years of age or older (there is no maximum age), who meet such prerequisites as the CAP corporation may establish from time to time, and who have not retained cadet status.

(d) *Liaison officers*. Active duty Air Force officers assigned to liaison duty at the national, regional, and wing (state) levels of CAP.

§ 842.139 Delegations of authority.

The appropriate subpart of this part under which the claim is being considered prescribes the authority to settle it.

§ 842.140 Proper claimants.

(a) Anyone suffering property damage, personal injury, or death arising from an Air Force noncombat mission or other specified Air Force authorized mission performed by CAP, who is also a proper claimant under the appropriate subpart of this part.

(b) The United States, for claims arising out of activities of CAP caused by negligent acts or omissions of CAP members or third parties.

§842.141 Improper claimants.

CAP members, 18 years of age or older, whose personal injury or death claim is subject to the Federal Employees' Compensation Act, are improper claimants. FECA is their exclusive remedy.

§842.142 Claims payable.

A claim is payable if all of the following are present:

- (a) It is for property damage, personal injury, or death.
- (b) It is proximately caused by a CAP member.
- (c) It arises from an Air Force noncombat mission performed by the CAP, or arises from an authorized mission performed by the CAP for which specific coverage under this subpart is granted by HQ USAF/JACC.
- (d) It is otherwise payable because it meets the provisions of an appropriate subpart of this part.

§842.143 Claims not payable.

A claim is not payable if it:

- (a) Is for use or depreciation of privately owned property, operated by CAP or its members on an Air Force noncombat mission, or other specified Air Force authorized mission.
- (b) Is for personal services or expenses incurred by CAP or its members while engaged in an Air Force noncombat mission, or other specified Air Force authorized mission.
- (c) Arises out of a CAP incident based solely on government ownership of property on loan to CAP.
- (d) Arises from a CAP activity not performed as a noncombat mission of the Air Force or as a specified Air Force authorized mission. These claims are sent to HQ CAP-USAF/JA for referral to CAP's private insurer, with a copy of the transmittal letter to HQ USAF/JACC.

**Subpart Q—Advance Payments
(10 U.S.C. 2736)**

§842.144 Scope of this subpart.

It tells how to make an advance payment before a claim is filed or finalized under the Military Claims, Foreign Claims and National Guard Claims Acts.

§842.145 Delegation of authority.

- (a) The Secretary of the Air Force has authority to make an advance payment of \$100,000 or less.
- (b) The Judge Advocate General has delegated authority to make an advance payment of \$100,000 or less.
- (c) The following individuals have delegated authority to make an advance payment of \$25,000 or less:
 - (1) The Deputy Judge Advocate General.
 - (2) The Director of Civil Law.
 - (3) The Chief, Deputy Chief, and Branch Chiefs, Claims and Tort Litigation Staff.
 - (4) SJA of 9AF for CENTCOM, and the SJAs of PACAF and USAFE.
- (d) This authority may be redelegated either orally or in writing. Oral redelegations should be confirmed in writing as soon as practical.

§842.146 Who may request.

A proper claimant or authorized agent may request an advance payment.

§842.147 When authorized.

Make advance payments only where all of the following exist:

- (a) The potential claimant could file a valid claim for property damage or personal injury under the Military Claims, Foreign Claims, or National Guard Claims Acts.
- (b) The potential claimant has an immediate need amounting to a hardship for food, shelter, medical or burial expenses, or other necessities. In the case of a commercial enterprise, severe financial loss or bankruptcy will result if the Air Force does not make an advance payment.
- (c) Other resources for such needs are not reasonably available.