

(b) *Claims not within the scope of this subpart.* Claims are not payable within the scope of this subpart if they arise out of the operation of an MWR activity supported by a NAFI and are caused by:

(1) Military personnel or appropriated fund civilian employees performing assigned Air Force duties, even though they benefit a NAFI.

(2) Negligent operation or condition of premises for which a NAFI is not responsible.

**§ 842.132 Claims by NAFI employees.**

Claims made by NAFI employees should be settled within the guidelines of this paragraph.

(a) *Personal injury in performance of duty and workers' compensation claims.* Claims for injuries arising out of performance of duty and workers' compensation claims are not within the scope of this subpart because the exclusive remedy is one of the following.

(1) Longshore and Harbor Workers' Compensation Act. This Act applies to NAFI civilian employees in the United States, its territories and possessions, and US citizen and resident NAFI civilian employees abroad.

(2) Local benefits for foreign national employees abroad.

(3) Military benefits because the injury is incident to service for off-duty military personnel.

(b) *Property loss or damage incident to NAFI employment.* Claims for loss or damage to property incident to NAFI employment are settled under subpart D. Where appropriate, liability is computed, and initial demand is made upon the carrier, warehouse, or insurer, directing them to send further correspondence to the NAFI paying the claim.

**§ 842.133 Claims by customers, members, participants, or authorized users.**

(a) *Customer complaints.* Do not automatically adjudicate customer complaint claims until a determination is made that a valid claim exists. Complaints and personal property losses suffered by customers of MWR sales or service operations are normally not within the scope of this subpart. Customer complaints may not be claims at

all. They may be no more than expressions of customer dissatisfactions. The activity manager is responsible for adjudicating and satisfying or otherwise disposing of a customer's complaint according to applicable NAFI regulations. Where possible, the activity manager resolves them by reimbursement, repair, or replacement in kind. However, if a complaint involving a claim cannot be satisfactorily settled under those procedures or includes a demand for consequential damage (such as for personal injury or property damage to other than the article purchased or serviced), process it as a tort claim.

(b) *Claims generated by concessionaires.* Most concessionaires must have commercial insurance. Any unresolved claims or complaints against concessionaires or their insurers are sent to the appropriate contracting officers.

**§ 842.134 Claims in favor of NAFIs.**

(a) *Tort claims.* Use the procedures set forth in subpart J or L, as appropriate.

(b) *Contract claims.* See AFR 176-9 or AFR 147-14, as appropriate.

(c) *Claims involving dishonored checks and debts to NAFIs.* See AFR 176-2 and 176-10 or AFR 147-14, as appropriate.

(d) *Third Party Workers' Compensation Claims.* NAF employees are provided workers' compensation benefits under the Longshore and Harbor Workers' Compensation Act (LHWCA) (33 U.S.C. 901, *et seq.*) as extended by the Non-appropriated Fund Instrumentalities Act (5 U.S.C. 8171-8173). For injuries suffered by NAFI employees in the course and scope of their employment where third parties are responsible for the injuries, the employing NAFIs are entitled to recover from the responsible third parties for the compensation and medical benefits paid to the injured employees (33 U.S.C. 933). Third party claims are pursued on behalf of employing NAFIs by the servicing staff judge advocate. A NAFI also has the right of offset against an employee's pay amounts recovered directly by the employee from third parties as provided in the LHWCA.

**§ 842.135 Advance payments.**

The procedures set out in subpart Q should be used for advance payments.

## § 842.136

Do not delay paying a claimant because doubt exists whether to use appropriated funds or NAFIs. Pay the claim initially from appropriated claim funds and decide the correct funding source later.

### § 842.136 Claim payments and deposits.

Unless otherwise specified in this subpart, claims for payment (in two copies), collected funds for deposit, and international agreement bills for reimbursement should be sent as follows:

(a) *AAFES*: (1) Claims payable for more than \$2500: HQ AAFES, Comptroller, Insurance Branch, P.O. Box 660202, Dallas, TX 75266-0202.

(2) Claims payable for \$2500 or less: AAFES Operations Center (OSC-AC), 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 mis-

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sions 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