

## Department of the Army, DoD

## §536.118

(e) A claim filed with, and considered by, a receiving State under a SOFA or other international agreement claims provision may be considered under other subparts of this part only if the receiving State denied the claim on the basis that it was not cognizable under the treaty or agreement provisions. See DA Pam 27-162, paragraph 3-4a(2), for conditions of waiver of the foregoing requirement. See also §§536.76(h) and 536.138(j) of this part. When a claimant has filed a claim with a receiving State and received payment, or the claim has been denied on the merits, such action will be the claimant's final and exclusive remedy and will bar any further claims against the United States.

### **§536.116 Responsibilities as to claims arising overseas under international agreements.**

(a) Command claims services or other responsible JA offices within whose jurisdiction SOFA or other treaty provisions provide for a claim reimbursement system, and where DA has been assigned single-service responsibility for the foreign country seeking reimbursement (see §536.17) are responsible for:

(1) Establishing programs for verifying, certifying, and reimbursing claims payments. Such service or JA office will provide a copy of its procedures implementing the program to the Commander USARCS.

(2) Providing the Commander USARCS with budget estimates for reimbursements in addition to the reports required by AR 27-20, paragraph 13-7.

(3) Providing the Commander USARCS each month in which payments are made, with statistical information on the number of individual claims reimbursed, the total amount paid by the foreign government, and the total amount reimbursed by the United States.

(4) Providing the Commander USARCS with a quarterly report showing total reimbursements paid during the quarter for maneuver damage and tort claims classified according to major categories of damage determined by the Commander USARCS, and an update on major issues or activities

that could affect the reimbursement system's operation or funding.

(b) Command claims services or other responsible Army JA offices will ensure that all claims personnel within their areas of responsibility:

(1) Receive annual training on the receiving State's claims procedures, including applicable time limitations, procedures and the responsible receiving State claims offices' locations.

(2) Screen all new claims and inquiries about claims to identify those claimants who must file with the receiving State.

(3) Ensure that all such claimants are informed of this requirement and the applicable time limitation.

(4) Ensure that all applicable SOFA claims based on incidents occurring in circumstances that bring them within the United States' primary sending State jurisdiction are fully investigated.

## **Subpart H—Maritime Claims**

### **§536.117 Statutory authority for maritime claims.**

The Army Maritime Claims Settlement Act (AMCSA) (10 U.S.C. 4801-04, 4806, as amended) authorizes the Secretary of the Army or his designee to administratively settle or compromise admiralty and maritime claims in favor of, and against, the United States.

### **§536.118 Related statutes for maritime claims.**

(a) The AMCSA permits the settlement of claims that would ordinarily fall under the Suits in Admiralty Act (SIAA), 46 U.S.C. app. 741-752; the Public Vessels Act (PVA), 46 U.S.C. app. 781-790; or the Admiralty Extension Act (AEA), 46 U.S.C. app. 740. Outside the United States the AMCSA may be used to settle admiralty claims in lieu of the Military Claims Act or Foreign Claims Act. Within the United States, filing under the AMCSA is not mandatory for causes of action as it is for the SIAA or PVA.

(b) Similar maritime claims settlement authority is exercised by the Department of the Navy under 10 U.S.C. 7363 and 7621-23 and by the Department

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of the Air Force under 10 U.S.C. 9801-9804 and 9806.

**§ 536.119 Scope for maritime claims.**

The AMCSA applies worldwide and includes claims that arise on high seas or within the territorial waters of a foreign country. At 10 U.S.C. 4802 it provides for the settlement or compromise of claims for:

(a) Damage caused by a vessel of, or in the service of, the Department of the Army (DA) or by other property under the jurisdiction of the DA.

(b) Compensation for towage and salvage service, including contract salvage, rendered to a vessel of, or in the service of, the DA or other property under the jurisdiction of the DA.

(c) Damage that is maritime in nature and caused by tortious conduct of U.S. military personnel or federal civilian employees, an agent thereof, or property under the Army's jurisdiction.

**§ 536.120 Claims payable as maritime claims.**

A claim is cognizable under this subpart if it arises in or on a maritime location, involves some traditional maritime nexus or activity, and is caused by the wrongful act or omission of a member of the U.S. Army, Department of Defense (DOD) or DA civilian employee, or an agent thereof, while acting within the scope of employment. This class of claims includes, but is not limited to:

(a) Damage to a ship, boat, barge, or other watercraft;

(b) An injury that involves a ship, boat, barge, or other watercraft;

(c) Damage to a wharf, pier, jetty, fishing net, farm facilities or other structures in, on, or adjacent to any body of water;

(d) Damage or injury on land or on water arising under the AEA and allegedly due to operation of an Army-owned or leased ship, boat, barge, or other watercraft;

(e) An injury that occurs on board an Army ship, boat, barge or other watercraft; and

(f) Crash into water of an Army aircraft.

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**§ 536.121 Claims not payable as maritime claims.**

Under this subpart, claims are not payable if they:

(a) Are listed in §§ 536.42, 536.43, 536.44, 536.45 (except at (e) and (k)), and 536.46;

(b) Are not maritime in nature;

(c) Are not in the best interests of the United States, are contrary to public policy, or are otherwise contrary to the basic intent of the governing statute, for example, claims for property loss or damage or personal injury or death by inhabitants of unfriendly foreign countries or by individuals considered to be unfriendly to the United States. When a claim is considered not payable for the reasons stated in this section, it will be forwarded for appropriate action to the Commander USARCS, along with the recommendations of the responsible claims office.

(d) Are presented by a national, or a corporation controlled by a national, of a country at war or engaged in armed conflict with the United States, or any country allied with such enemy country, unless the appropriate settlement authority determines that the claimant is and, at the time of incident, was friendly to the United States. A prisoner of war or an interned enemy alien is not excluded or barred from bringing a claim for damage, loss, or destruction of personal property while held in the custody of the government if the claim is otherwise payable.

(e) Are for damages or injuries that a receiving State should pay for under an international agreement. See § 536.34(c).

**§ 536.122 Limitation of settlement of maritime claims.**

(a) Within the United States the period of completing an administrative settlement under the AMCSA is subject to the same time limitation as that for beginning suit under the SIAA or PVA; that is, a two-year period from the date the cause of the action accrued. The claimant must have agreed to accept the settlement and it must be approved for payment by the Secretary of the Army or other approval authority prior to the end of such period. The presentation of a claim, or its consideration by the DA, neither waives nor extends the two-year limitation period and the