§ 536.148 Claims generated by the acts or omissions of NAFI employees.

(a) Processing. Claims arising out of acts or omissions of employees of NAFI activities will be processed and settled in the manner specified for similar claims against the United States, except that payment will be made from NAFs in accordance with AR 215–1 (Morale, Welfare, and Recreation Activities and Nonappropriated Fund Instrumentalities) and §536.152 of this part.

(b) Procedural requirements. Procedural requirements of this part’s pertinent subparts, as stated below, will be followed except as provided in §§536.151 and 536.152. However, when the Nonappropriated Fund Instrumentality (NAFI) is protected by a commercial insurer (for example, flying and parachute activities), the claim will be referred to the insurer as outlined in §536.148(d). See Department of Defense Directive (DODD) 5515.6, dated November 3, 1956, posted on the USARCS Web site (see §536.2(a)).

(1) Claims arising within the United States, its territories, commonwealths, or possessions. Such claims will be processed in the manner prescribed by subparts C, D, E, F, H or J of this part, as appropriate.

(2) Claims arising outside the United States, its territories, commonwealths, or possessions. Such claims will be processed in accordance with the provisions of applicable Status of Forces Agreements (SOFAs) or in the manner prescribed by subparts C, D, E, F, H or J of this part, as appropriate.

(c) Reporting and investigation. Such claims will be investigated in accordance with AR 215–1 and subpart B of this part.

(1) Reporting. Personal injury, death, or property damage resulting from vehicular collisions, falls, falling objects, assaults, or accidents of similar nature will be reported immediately to the person in charge of the NAFI or activity at which it occurred. The report should be made by the employee who initially received notice of the incident, even if the individual involved denies sustaining personal injury or property damage. Upon receipt of the report of the incident, the person in charge of the NAF activity concerned...
§ 536.149 Identification of persons whose actions may generate liability.

Claims resulting from the acts or omissions of members of the classes of persons listed below may be processed under this section. An ACO or a CPO authority will ask the Commander USARCS, for an advisory opinion prior to settling any claim where the person whose conduct generated the claim does not clearly fall within one of the following categories:

(a) Civilian employees of NAFI activities whose salaries are paid from NAFs.
(b) Active duty military personnel while performing off-duty part-time work for which they are compensated from NAFIs, not to include members who are acting in their capacity as an officer or other official of the NAFI.
(c) Volunteers serving in an official capacity in furtherance of the business of the United States, limited to those categories set forth in DA Pam 27–162, paragraph 2–45d.

§ 536.150 Claims payable from appropriated funds.

Claims payable from appropriated funds will be processed under the appropriate subpart. Appropriated fund payable claims include those resulting from:

(a) Acts or omissions of military personnel while performing assigned military duties in connection with NAFI activities.
(b) Acts or omissions of civilian employees paid from appropriated funds in connection with NAFI activities.
(c) Negligent maintenance of an appropriated funds facility used by a NAFI activity but for which the Department of Defense or Department of the Army (DA) command concerned is responsible and has been notified of the deficiency by the NAF. Where liability