

§ 327.28

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evidence against which to evaluate the written report of the claimant's physician. The Maritime Administration determines the need for this examination, makes mutually convenient arrangements for such an examination, and bears the costs thereof.

(c) All hospital records or other medical documents from either this injury or any relevant past injury.

(d) If the claimant is employed, a written statement by the claimant's employer certifying the claimant's:

- (1) Age;
- (2) Occupation;
- (3) Hours of employment;
- (4) Hourly rate of pay or weekly salary;
- (5) Time lost from work as a result of the incident; and
- (6) Claimant's actual period of employment, full-time or part-time, and any effect of the injury upon such employment to support claims for lost earnings.

(e) If the claimant is self-employed, written statements, or other evidence showing:

- (1) The amount of earnings actually lost; and
- (2) The Federal tax return if filed for the three previous years.

(f) If the claim arises out of injuries to a person providing services to the claimant, statement of the cost necessarily incurred to replace the services to which claimant is entitled under law.

§ 327.28 Proof of amount claimed for loss of, or damage to, property.

The following evidence must be presented when appropriate:

(a) For each particular lost item, evidence of its value such as a bill of sale and a written appraisal, or two written appraisals, from separate disinterested dealers or brokers, market quotations, commercial catalogs, or other evidence of the price at which like property can be obtained in the community. The Maritime Administration may waive these requirements when circumstances warrant. The reasonable cost of any appraisal may be included as an element of damage if not deductible from any bill submitted to claimant.

(b) For each particular damaged item which can be economically repaired, evidence of cost of repairs such as a receipted bill and one estimate, or two estimates, from separate disinterested repairmen. The Maritime Administration may waive these requirements when circumstances warrant. The reasonable cost of any estimate may be included as an element of damage if not deductible from any repair bill submitted to claimant.

(c) For any claim for property damage which may result in payment in excess of \$20,000.00, a survey or appraisal shall be performed as soon as practicable after the damage accrues, and, unless waived in writing, shall be performed jointly with a government representative.

(d) If the item is so severely damaged that it cannot be economically repaired or used, it shall be treated as a lost item.

(e) If a claim includes loss of earnings or use during repairs to the damaged property, the following must also be furnished and supported by competent evidence:

- (1) The date the property was damaged;
- (2) The name and location of the repair facility;
- (3) The beginning and ending dates of repairs and an explanation of any delay between the date of damage and the beginning date;
- (4) A complete description of all repairs performed, segregating any work performed for the owner's account and not attributable to the incident involved, and the costs thereof;

(5) The date and place the property was returned to service after completion of repairs, and an explanation, if applicable, of any delay;

(6) Whether or not a substitute for the damaged property was available. If a substitute was used by the claimant during the time of repair, an explanation of the necessity of using the substitute, how it was used, and for how long, and the costs involved. Any costs incurred that would have been similarly incurred by the claimant in using the damaged property must be identified;

(7) Whether or not during the course of undergoing repairs the property

would have been used, and an explanation submitted showing the identity of the person who offered that use, the terms of the offer, time of prospective service, and rate of compensation; and

(8) If at the time of damage the property was under charter or hire, or was otherwise employed, or would have been employed, the claimant shall submit a statement of operating expenses that were, or would have been, incurred. This statement shall include wages and all bonuses which would have been paid, the value of fuel and the value of consumable stores, separately stated, which would have been consumed, and all other costs of operation which would have been incurred including, but not limited to, license and parking fees, personnel expenses, harbor fees, wharfage, dockage, shedding, stevedoring, towage, pilotage, inspection, tolls, lockage, anchorage and moorage, grain elevation, storage, and customs fees.

(f) For each item which is lost, actual or constructive, proof of ownership.

§ 327.29 Effect of other payments to claimant.

The total amount to which the claimant may be entitled is normally computed as follows:

(a) The total amount of the loss, damage, or personal injury suffered for which the United States is liable, less any payment the claimant has received from the following sources:

(1) The military member or civilian employee who caused the incident;

(2) The military member's or civilian employee's insurer; and

(3) Any joint tort-feasor or insurer.

(b) No deduction is generally made for any payment the claimant has received by way of voluntary contributions, such as donations of charitable organizations.

§ 327.30 Statute of limitations for AEA and claim requirements.

A civil suit must be filed within two years of the Accrual Date. No civil suit may be brought until the earlier occurrence of either the denial of a claim or the presumptive denial of the claim after 6 months from the date the claim was properly presented in writing to the Maritime Administration.

§ 327.31 Statute of limitations not tolled by administrative consideration of claims.

The statute of limitations for filing a civil action under 46 U.S.C. 30101(b) is not tolled by MarAd's administrative consideration of a claim.

§ 327.32 Notice of claim acceptance or denial.

The Maritime Administration shall give prompt notice in writing of the acceptance or denial of each claim in whole or in part, by mail to the last known address of, or by personal delivery to, the claimant or the claimant's legal representative. In the case of denial, such notice shall contain a brief statement of the reason for such a denial.

§ 327.33 Claim denial presumption.

If the Maritime Administration fails to give written notice of acceptance or denial of a claim in accordance with § 327.30 within 6 months following the date of receipt of such a claim by the proper person designated in § 327.24(b), such claim shall be presumed to have been denied by the Maritime Administration.

§ 327.34 Court action.

No person, surviving dependent or beneficiary, or legal representative, having a claim specified under 46 U.S.C. 30101(a) against the Maritime Administration, shall institute a court action against the Maritime Administration unless an administrative claim has previously been properly presented and filed in accordance with §§ 327.22, 327.23, and 327.24, and such administrative claim has been subsequently denied in accordance with § 327.32 or § 327.33.

Subpart C—Other Admiralty Claims

§ 327.40 Other Admiralty claims.

(a) Admiralty claims caused by United States owned and operated vessels on navigable waters or otherwise that are not covered under the Clarification Act (50 U.S.C. app. 1291(a)), the Admiralty Extension Act (46 U.S.C. 30101) or the Contracts Disputes Act (41