

§ 14.12

40 CFR Ch. I (7-1-10 Edition)

(2) In a marine, rail, aircraft, or other common disaster or natural disaster such as a fire, flood, or hurricane;

(3) When the personal property was subjected to an extraordinary risk in the employee's performance of duty, such as in connection with an emergency situation, a civil disturbance, common or natural disaster, or during efforts to save government property or human life;

(4) When the property was used for the benefit of the government at the specific direction of a supervisor;

(5) When the property was money or other valuables deposited with an authorized government agent for safekeeping; and

(6) When the property was a vehicle which was subjected to an extraordinary risk in the employee's performance of duty and the use of the vehicle was at the specific direction of the employee's supervisor.

(c) *Claims for articles of clothing.* Claims for loss or damage to clothing and accessories worn by an employee may be allowed where:

(1) The damage or loss occurred during the employee's performance of official duty in an unusual or extraordinary risk situation;

(2) The loss or damage occurred during the employee's response to an emergency situation, to a natural disaster such as fire, flood, hurricane, or to a man-made disaster such as a chemical spill;

(3) The loss or damage was caused by faulty or defective equipment or furniture maintained by EPA; or

(4) The item was stolen even though the employee took reasonable precautions to protect the item from theft.

(d) *Claims for loss or damage to household items.* (1) Claims for damages to household goods may be allowed where:

(i) The loss or damages occurred while the goods were being shipped pursuant to an EPA authorized change in duty station;

(ii) The employee filed a claim for the damages with the appropriate carrier; and

(iii) The employee substantiates that he/she has suffered a loss in excess of the amount paid by the carrier.

(2) Where a carrier has refused to make an award to an employee because of his/her failure to comply with the carrier's claims procedures, any award by EPA will be reduced by the maximum amount payable for the item by the carrier under its contract of shipment. Where an employee fails to notify the carrier of damages or loss, either at the time of delivery of the household goods or within a reasonable time after discovery, any award by EPA will be reduced by the amount of the carrier's maximum contractual liability for the damage or loss. The employee has the burden of proving his/her entitlement to reimbursement from EPA for amounts in excess of that allowed by the carrier.

**§ 14.12 Principal types of unallowable claims.**

Claims that ordinarily will not be allowed include:

(a) Loss or damage totaling less than \$25;

(b) Money or currency, except when deposited with an authorized government agency for safekeeping;

(c) Loss or damage to an item of extraordinary value or to an antique where the item was shipped with household goods, unless the employee filed a valid appraisal or authentication with the carrier prior to shipment of the item;

(d) Loss of bankbooks, checks, notes, stock certifications, money orders, or travelers checks;

(e) Property owned by the United States unless the employee is financially responsible for it to another government agency;

(f) Claims for loss or damage to a bicycle or a private motor vehicle, unless allowable under § 14.11(b)(6);

(g) Losses of insurers or subrogees;

(h) Losses recoverable from insurers or carriers;

(i) Losses recovered or recoverable pursuant to contract;

(j) Claims for damage or loss caused, in whole or in part, by the negligent or wrongful acts of the employee or his/her agent;

(k) Property used for personal business or profit;

(l) Theft from the possession of the employee unless the employee took

## Environmental Protection Agency

## § 16.2

reasonable precautions to protect the item from theft;

(m) Property acquired, possessed or transported in violation of law or regulations;

(n) Unserviceable property; or

(o) Damage or loss to an item during shipment of household goods where the damage or loss was caused by the employee's negligence in packing the item.

### § 14.13 Items fraudulently claimed.

Where the EPA Claims Officer determines that an employee has intentionally misrepresented the cost, condition, cost of repair or a material fact concerning a claim, he/she may, at his discretion, deny the entire amount claimed for the item. Further, where the EPA Claims Officer determines that the employee intentionally has materially misrepresented the costs, conditions or nature of repairs of the claim, he will refer it to appropriate officials (e.g., Inspector General, the employee's supervisor, etc.) for action.

### § 14.14 Computation of award.

(a) The amount awarded on any item may not exceed its adjusted cost. Adjusted cost is either the purchase price of the item or its value at the time of acquisition, less appropriate depreciation. The amount normally payable for property damaged beyond economical repair is its depreciated value immediately before the loss or damage, less any salvage value. If the cost of repair is less than the depreciated value, it will be considered to be economically repairable and only the cost of repair will be allowable.

(b) Notwithstanding a contract to the contrary, the representative of an employee is limited by 31 U.S.C. 3721(i) to receipt of not more than 10 percent of the amount of an award under this part for services related to the claim. A person violating this paragraph is subject to a fine of not more than \$1,000. 31 U.S.C. 3721(i).

## PART 16—IMPLEMENTATION OF PRIVACY ACT OF 1974

Sec.

16.1 Purpose and scope.

16.2 Definitions.

16.3 Procedures for accessing, correcting, or amending personal records.

16.4 Times, places, and requirements for identification of individuals making requests.

16.5 Request for correction or amendment of record.

16.6 Initial decision on request for access to, or correction or amendment of, records.

16.7 The appeal process.

16.8 Special procedures: Medical Records.

16.9 Fees.

16.10 Penalties.

16.11 General exemptions.

16.12 Specific exemptions.

AUTHORITY: 5 U.S.C. 301, 552a (as revised).

SOURCE: 71 FR 234, Jan. 4, 2006, unless otherwise noted.

### § 16.1 Purpose and scope.

(a) This part implements the Privacy Act of 1974 (5 U.S.C. 552a) (PA or Act) by establishing Environmental Protection Agency (EPA or Agency) policies and procedures that permit individuals to obtain access to and request amendment or correction of information about themselves that is maintained in Agency systems of records. This part also establishes policies and procedures for administrative appeals of requests for access to, or correction or amendment of, records. This part does not expand or restrict any rights granted under the PA.

(b) These procedures apply only to requests by individuals seeking their own records and only to records maintained by EPA. These procedures do not apply to those systems specifically exempt under §§ 16.11 and 16.12 herein or to any government-wide systems maintained by other Federal agencies.

(c) Privacy Act requests made by individuals for records about themselves and which are processed under this Part, will also be treated as FOIA requests and processed as appropriate under 40 CFR Part 2 to ensure full disclosure.

### § 16.2 Definitions.

As used in this part:

(a) The terms *individual*, *maintain*, *record*, and *system of records* have the same meanings as specified in 5 U.S.C. 552a.

(b) *EPA* means the Environmental Protection Agency.