

### § 33.15

as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of law or contract, unless there are statutory or contractual provisions to the contrary.

#### § 33.15 Refunds.

(a) The Secretary shall promptly refund any amounts paid or deducted under this part when:

(1) A debt is waived or otherwise found not owing to the United States; or

(2) The employee's paying agency is directed by administrative or judicial order to refund amount deducted from the employee's current pay.

(b) Unless required or permitted by law or contract, refunds shall not bear interest.

#### § 33.16 Additional administrative collection action.

Nothing contained in this part is intended to preclude the use of any other appropriate administrative remedy.

## PART 34—CLAIMS FILED UNDER THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES ACT

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AUTHORITY: 31 U.S.C. 3721.

SOURCE: 69 FR 13257, Mar. 22, 2004, unless otherwise noted.

#### § 34.1 Purpose and scope.

(a) *Purpose.* This part prescribes policies and procedures for handling claims not in excess of \$40,000.00 filed by employees against the Department of Health and Human Services under the Military Personnel and Civilian Employees Claims (MPCE) Act of 1964, 31 U.S.C. 3721, for damage to, or loss of, property against the Department. Under the MPCE Act, the Secretary may approve claims made against the Government by a federal government employee for damage to or loss of per-

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sonal property that is incident to employment when the loss or damage is not due to any negligence on the part of employee.

(b) *Scope.* This part applies to all Departmental Operating Divisions and Regional Offices that process and review claims under the MPCE Act. Nothing in this part shall be construed to bar other types of claims that are payable under other statutory authority such as, but not limited to, the Federal Tort Claims Act (28 U.S.C. 2671–2680).

#### § 34.2 Definitions.

In this part, unless the context otherwise requires:

*Claim* means any claim filed by or on behalf of an employee for damage to, or loss of, property that is incident to the claimant's employment. This definition includes claims where the claimant is not the legal owner of the property in question, but has obtained authorization from the legal owner to possess or control the property.

*Claimant* means an employee who has filed a claim with the Department under the MPCE Act.

*Damage or loss* means total or partial destruction or loss of the item claimed.

*Department* means the Department of Health and Human Services.

*Employee* means an officer or employee of the Department.

*Quarters* means a house, apartment or other residence assigned by the government to an employee of the Department.

#### § 34.3 Filing procedures and time limits.

(a) *Who may file a claim.* A claim may be filed by the following individuals:

- (1) An employee;
- (2) An authorized agent or representative of an employee or employee's estate, regardless of whether the claim arose before or concurrent with an employee's death; and
- (3) A former employee or his authorized agent or representative if damage or loss occurred prior to the separation from the Department.

(b) *Requirements.* A claim submitted under this part must be presented in writing to the Claims Officer (*See* paragraph (c) of this section). Claims may