

## § 101-39.402

the vehicle operator's supervisor. The vehicle operator shall also obtain the names, addresses, and telephone numbers of any witnesses and, wherever possible, have witnesses complete Standard Form 94, Statement of Witness, and give the completed Standard Form 94 and other related information to his or her supervisor. The vehicle operator shall make no statements as to the responsibility for the accident except to his or her supervisor or to a Government investigating officer.

(c) Whenever a vehicle operator is injured and cannot comply with the above requirements, the agency to which the vehicle is issued shall report the accident to the State, county, or municipal authorities as required by law, notify the GSA IFMS fleet manager of the center issuing the vehicle as soon as possible after the accident, and complete and process Standard Form 91. A complete copy of the accident report shall be forwarded to the appropriate GSA office as outlined in the vehicle operator's packet.

[51 FR 11023, Apr. 1, 1986, as amended at 56 FR 59891, Nov. 26, 1991; 58 FR 65291, Dec. 14, 1993]

## § 101-39.402 Recommendations for disciplinary action.

If a vehicle operator fails to report an accident involving a GSA Interagency Fleet Management System (IFMS) vehicle in accordance with § 101-39.401, or if the operator has a record showing a high accident frequency or cost, GSA will notify the appropriate official(s) of the operator's agency, and will advise that either failure to report an accident or poor driving record is considered by GSA to be sufficient justification for the agency to suspend the right of the employee to use a GSA IFMS vehicle.

[56 FR 59891, Nov. 26, 1991]

## § 101-39.403 Investigation.

(a) Every accident involving a GSA Interagency Fleet Management System (IFMS) vehicle shall be investigated and a report furnished to the manager of the GSA IFMS fleet management center which issued the vehicle.

(b) The agency employing the vehicle operator shall investigate the accident

## 41 CFR Ch. 101 (7-1-05 Edition)

within 48 hours after the actual time of occurrence. Also, GSA may investigate any accident involving an IFMS vehicle when deemed necessary. Should such investigation develop additional information, the additional data or facts will be furnished to the using agency for its information.

(c) Two copies of the complete report of the investigation, including (when available) photographs, measurements, doctor's certificate of bodily injuries, police investigation reports, operator's statement, agency's investigation reports, witnesses' statements, the Motor Vehicle Accident Report (SF 91), and any other pertinent data shall be furnished to the manager of the GSA IFMS fleet management center issuing the vehicle.

[51 FR 11023, Apr. 1, 1986, as amended at 56 FR 59891, Nov. 26, 1991; 58 FR 65291, Dec. 14, 1993]

## § 101-39.404 Claims in favor of the Government.

Whenever there is any indication that a party other than the operator of the GSA Interagency Fleet Management System (IFMS) vehicle is at fault and that party can be reasonably identified, the agency responsible for investigating the accident shall submit all original documents and data pertaining to the accident and its investigation to the servicing GSA IFMS fleet management center. The GSA IFMS regional fleet manager, or his/her representative, will initiate the necessary action to effect recovery of the Government's claim.

[56 FR 59891, Nov. 26, 1991]

## § 101-39.405 Claims against the Government.

(a) Whenever a GSA Interagency Fleet Management System (IFMS) vehicle is involved in an accident resulting in damage to the property of, or injury to, a third party, and the third party asserts a claim against the Government based on the alleged negligence of the vehicle operator (acting within the scope of his or her duties), it shall be the responsibility of the agency employing the person who was operating the GSA IFMS vehicle at the

time of the accident to make every effort to settle the claim administratively to the extent that the agency is empowered to do so under the provisions of 28 U.S.C. 2672. It shall be the further responsibility of the agency, in the event that administrative settlement cannot be effected, to prepare completely, from an administrative standpoint, the Government's defense of the claim. The agency shall thereafter transmit the complete case through appropriate channels to the Department of Justice.

(b) Except for the exclusions listed in § 101-39.406, the agency employing the vehicle operator shall be financially responsible for damage to a GSA IFMS vehicle.

(c) If a law suit is filed against the agency using a GSA Interagency Fleet Management System (IFMS) vehicle, the agency shall furnish the appropriate GSA Regional Counsel with a copy of all papers served in the action. When requested, GSA's Regional Counsel will cooperate with and assist the using agency and the Department of Justice in defense of any action against the United States, the using agency, or the operator of the vehicle, arising out of the use of a GSA IFMS vehicle.

[56 FR 59891, Nov. 26, 1991]

**§ 101-39.406 Responsibility for damages.**

(a) GSA will charge the using agency all costs resulting from damage, including vandalism, theft, and parking lot damage, to a GSA Interagency Fleet Management System (IFMS) vehicle which occurs during the period that the vehicle is assigned or issued to that agency, to an employee of that agency, or to the agency's authorized contractor; however, the using agency will not be held responsible for damages to the vehicle if it is determined by GSA, after a review on a case by case basis of the documentation required by § 101-39.401, that damage to the vehicle occurred:

(1) As a result of the negligent or willful act of a party other than the agency (or the employee of that agency) to which the vehicle was assigned or issued and the identity of the party can be reasonably determined;

(2) As a result of mechanical failure of the vehicle, and the using agency (or its employee) is not otherwise negligent. Proof of mechanical failure must be submitted; or

(3) As a result of normal wear and tear such as is expected in the operation of a similar vehicle.

(b) Agencies using GSA IFMS services will be billed for the total cost of all damages resulting from neglect or abuse of assigned or issued GSA IFMS vehicles.

(c) If an agency is held responsible for damages, GSA will charge to that agency all costs for removing and repairing the GSA IFMS vehicle. If the vehicle is damaged beyond economical repair, GSA will charge all costs to that agency, including fair market value of the vehicle less any salvage value. Upon request, GSA will furnish an accident report, where applicable, regarding the incident to the agency. Each agency shall be responsible for disciplining its employees who are guilty of damaging GSA IFMS vehicles through misconduct or improper operation, including inattention.

(d) If an agency has information or facts that indicate that it was not responsible for an accident, the agency may furnish the data to GSA requesting that costs charged to and collected from it be credited to the agency. GSA will make the final determination of agency responsibility based upon Government findings, police accident reports, and any available witness statements.

(e) When contractors or subcontractors of using agencies are in accidents involving GSA IFMS vehicles, the agency employing the contractor will usually be billed directly for all costs associated with the accident. It will be the responsibility of the using agency to collect accident costs from the contractor should the contractor be at fault.

[56 FR 59892, Nov. 26, 1991]

**§ 101-39.407 Accident records.**

If GSA's records of vehicle accidents indicate that a particular activity has had an unusually high accident frequency rate or a high accident cost per