

§ 101-40.409-2 Causes for debarment.

The debarring official may debar a carrier for any of the following reasons:

(a) Failure of a carrier, within the prescribed period of temporary nonuse, to correct any of the causes listed in § 101-40.408-2;

(b) Conviction of or civil judgment for:

(1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a contract for transportation;

(2) Violation of Federal or State anti-trust statutes;

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

(4) Commission of any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the present responsibility of the carrier as a transporter of the Government's property or the household goods of its employees relocated in the interest of the Government.

(c) Violation of the terms of a contract for transportation so serious as to justify debarment, such as:

(1) Willful failure to perform in accordance with the terms of one or more contracts for transportation, or

(2) A history of failure to perform, or of unsatisfactory performance of, one or more contracts for transportation;

(d) Any other cause of so serious or compelling a nature that it affects the present responsibility of the carrier; or

(e) Debarment for any of the causes stated in paragraphs (a) through (d) of this section by another agency where the original debarment did not have Governmentwide effect.

[51 FR 24340, July 3, 1986]

§ 101-40.410 Suspension.**§ 101-40.410-1 General.**

(a) The suspending official may, in the Government's best interest, suspend a carrier for any of the causes stated in § 101-40.410-2, using the procedures provided in 48 CFR 9.407-3.

(b) Suspension is a serious action to be imposed on the basis of adequate

evidence of one or more of the causes set forth in § 101-40.410-2, pending the completion of investigation or legal proceedings, when it has been determined that immediate action is necessary to protect the Government's interest. In assessing the adequacy of the evidence, consideration should be given to how much information is available, how credible it is given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result. This assessment should include an examination of basic documents such as contracts of carriage, loss or damage reports, and correspondence, as appropriate.

(c) Suspension of a carrier constitutes suspension of all divisions or other organizational elements of the carrier, unless the suspension decision is limited by its terms to specific divisions or organizational elements. The suspending official may extend the suspension decision to include any affiliates of the carrier, if they are—

(1) Specifically named and

(2) Given written notice of the suspension and an opportunity to respond.

(d) A carrier's suspension shall apply to all agencies, including the Department of Defense, unless the head of an agency requiring transportation services, or an authorized representative, states in writing the compelling reasons justifying continued business dealings between that agency and the carrier.

[51 FR 24340, July 3, 1986]

§ 101-40.410-2 Causes for suspension.

(a) The suspending official may suspend a carrier suspected upon adequate evidence of:

(1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a contract for transportation;

(2) Violation of Federal or State anti-trust statutes;

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or

(4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and

directly affects the present responsibility of the carrier as a transporter of the Government's property or the household goods of its employees relocated in the interest of the Government.

(b) Indictment for any of the causes in paragraph (a) of this section constitutes adequate evidence for suspension;

(c) The suspending official, may upon adequate evidence also suspend a carrier for any other cause of so serious or compelling a nature that it affects the present responsibility of a carrier; or

(d) A carrier may be suspended for any of the above causes based on a suspension by another agency where the original suspension does not have Governmentwide effect.

[51 FR 24340, July 3, 1986]

Subparts 101-40.5—101-40.6 [Reserved]

Subpart 101-40.7—Reporting and Adjusting Discrepancies in Government Shipments

SOURCE: 32 FR 8965, June 23, 1967, unless otherwise noted.

§ 101-40.700 Scope of subpart.

This subpart prescribes regulations and procedures for reporting and adjusting overages, shortages, losses, damages, and other discrepancies between the quantity or condition of property in shipments received from commercial carriers and the quantity or condition of that property as shown on the covering bill of lading or other transportation document. (Specific additional requirements for reporting discrepancies in shipments received from GSA or DOD are set forth in the GSA handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings, issued pursuant to subpart 101-26.8.)

[42 FR 25858, May 20, 1977]

§ 101-40.701 Receipt of shipment from carrier.

When accepting delivery of a shipment from the carrier, a careful inspection and check shall be made of the

quantity and condition of the property received, and an accurate record shall be made and kept of any discrepancies or variations between the data shown on the covering bill of lading or other transportation document and the quantity and condition of property actually received. When an overage, shortage, loss, damage, or other discrepancy is noted upon receipt of shipment, a discrepancy report shall be prepared as required in § 101-40.702-3. A damaged shipment shall not be rejected regardless of the degree of damage or the contract delivery terms, except as indicated in § 101-40.704-1(c). The consignee shall take reasonable precautions to protect the damaged property in order to mitigate the losses to the carrier. Care shall be taken to preserve the contents, the original package, and the packing material pending completion of inspection by the carrier. Where applicable, the following actions shall be taken in checking and documenting delivery conditions:

(a) When a shipment is received in a closed conveyance, a notation shall be made on the carrier's delivery receipt or freight bill and on the consignee's copy of the delivery receipt or freight bill of the number and condition of any seals; i.e., intact, broken, or missing, on the carrier's conveyance and whether the shipment was properly loaded, stowed, blocked, and braced.

(b) On shipments other than in bulk, the number of pieces or packages in the shipment shall be physically counted and recorded by means of a stroke tally or other appropriate method.

(c) A notation shall be made on the carrier's delivery receipt, if available, and the consignee's copy of the delivery receipt or freight bill of the condition of the railcar, motor vehicle, container, or other conveyance with particular attention to any circumstance that might contribute to loss or damage; e.g., loose flooring or sides or protruding nails or bolts. When there is suspicion or evidence of damage to an ocean shipment, the ocean carrier or his agent shall be requested to furnish details concerning the manner of stowage of the shipment aboard the vessel.

(d) If a shipment is received in apparent bad order; e.g., if the load is shifted or jumbled or containers are broken or