

or other transportation document and when all packages are marked for the consignee, the overages shall be accepted. The consignee shall attempt to reconcile overages and astray freight with corresponding shortages associated with other shipments received at that activity.

(b) If excess freight on one bill of lading is identical with a reported shortage on another bill of lading, the excess or overage shall be used to offset the reported shortage. If excess freight cannot be identified or used to offset other shortages within 7 calendar days after the date of discovery, the consignee shall use SF 361 to request disposition instructions from the consignor or shipper and shall convey these instructions to the delivering carrier.

(c) If a carrier attempts to deliver a shipment containing packages which are marked for another consignee or which cannot otherwise be identified, the misdirected or astray packages shall not be accepted.

[42 FR 25860, May 20, 1977, as amended at 51 24342, July 3, 1986]

**§ 101-40.706 [Reserved]**

**§ 101-40.707 Determining liability for discrepancies.**

**§ 101-40.707-1 Transportation for account of the supplier.**

When the transportation is performed by the carrier for the supplier rather than for the Government (e.g., when the property is purchased f.o.b. destination), determination of liability for discrepancies in shipment will be resolved between the carrier and the supplier. However, in such instances the Government receiving activity shall make accurate notations of discrepancies on the carrier's delivery receipt or freight bill, and shall use SF 361 to furnish a report of the discrepancies to the supplier, or to the agency contracting officer as individual agency regulations may provide, to assist the supplier in resolving the discrepancies. The report shall include supporting documents; i.e., a copy of the annotated delivery receipt, photos, inspection report, or written waiver.

[51 FR 24342, July 3, 1986]

**§ 101-40.707-2 Transportation for account of the Government.**

Determination of liability for discrepancies shall be the responsibility of the Government agency paying the transportation charges (a) in all instances where a shipment is made on a Government bill of lading, commercial bill of lading to be converted to a Government bill of lading, commercial bill of lading bearing a notation that charges will be borne by the U.S. Government, commercial bill of lading under commercial forms and procedures for small shipments (see § 101-41.304-2), or purchase order for local drayage, and (b) in other instances where the Government assumes the risk for loss and damage at origin; e.g., when property is purchased f.o.b. origin, freight prepaid. While no precise formula can be prescribed for agencies to follow in determining whether liability for loss and damage rests with the carrier, the shipper, or a third party, an analysis shall be made of all the pertinent factors and circumstances involved, including, when appropriate, consideration of the following:

(1) Type and adequacy of the packing and packaging.

(2) Adequacy of marking, including precautionary markings for fragile or dangerous cargo.

(3) Condition of the package, including any indications of rough handling or pilferage.

(4) In case of load lots:

(i) Condition of the vehicle, whether dirty, contaminated, unsafe, structurally defective, appropriate type, etc.;

(ii) Identification and condition of seals on conveyances and by whom applied;

(iii) Manner of loading, stowing, blocking, and bracing; and

(iv) Determination as to whether loading was performed by shipper or carrier.

(5) Tally records and how compiled.

(6) Photographic evidence.

(7) Expert or professional appraisals.

[32 FR 8965, June 23, 1967, as amended at 42 FR 25861, May 20, 1977]