

§ 101-40.708 [Reserved]**§ 101-40.709 Time limitations for filing claims.**

Government agencies shall take prompt action to recover amounts due the United States as a result of discrepancies in delivery, in accordance with time limitations established by the bill of lading or other contracts of carriage, or by statute. The following are examples of such time limitations:

(a) *Domestic shipments.* (1) Claims for loss or damage to shipments transported by carriers subject to the Revised Interstate Commerce Act (49 U.S.C. 10101, *et seq.*, Pub. L. 95-473, October 17, 1978, as amended) shall be filed within the specified limits required by law, the terms of the bill of lading or other contract of carriage, and all tariff provisions applicable thereto. Pursuant to 49 U.S.C. 11707(e), bills of lading normally issued by rail and motor carriers specify that written claim be made upon the carrier within 9 months after delivery of property damaged or within 9 months following the time when delivery of property should have been made, and that suit shall be instituted within 2 years from the date the carrier or its agent notifies the claimant in writing that the specified claim is disallowed in whole or in part. Neither limitation is applicable to shipments made on Government bills of lading, or commercial bills of lading to be converted to Government bills of lading, or commercial bills of lading subject to the terms of the Government bill of lading. (See § 101-41.302-3(g) for exemption authority.)

(2) Claims for loss or damage to shipments moving by domestic air carriers shall be filed within the limits prescribed on individual carrier's air waybills.

(b) *Ocean shipments.* The Carriage of Goods by Sea Act (46 U.S.C. 1303(6), as amended) imposes a 1-year limitation for bringing court action against ocean carriers for loss or damage.

(c) *International air shipments.* Complaints of loss or damage shall be submitted in writing to the international air carrier within the following time limits set by Article 26 of the Warsaw Convention (49 Stat. 3020, as amended):

(1) Claims for visible damage to goods must be filed as soon as possible following discovery of the damage but within 14 days from receipt of the goods;

(2) Claims for other damage to goods must be filed within 14 days from the receipt of goods;

(3) Claims for nondelivery of goods must be filed within 120 days from the date of the issue of the air waybill; and

(4) A 2-year limitation is imposed by Article 29 of the Warsaw Convention (49 Stat. 3021) for bringing court action against the carrier for loss or damage to international air shipments.

(d) *International air shipments.* A 2-year limitation is imposed by Article 29 of the Warsaw Convention (49 Stat. 3000) for bringing court actions against air carriers for loss or damage to international air shipments.

[32 FR 8965, June 23, 1967, as amended at 51 FR 24342, July 3, 1986]

§ 101-40.710 Processing claims against carriers.

(a) When the transportation is for the account of the Government (see § 101-40.707-2) and when it is determined that the carrier is responsible for loss or damage to a shipment (other than household goods), a claim shall be prepared on Standard Form 362, U.S. Government Freight Loss/Damage Claim, and forwarded in duplicate to the appropriate carrier with the necessary supporting documents; e.g., delivery receipts, photographs, inspection reports, except as otherwise provided in § 101-40.711. (See 49 CFR parts 1005 and 1056 for additional regulations concerning processing of claims against carriers subject to the Revised Interstate Commerce Act.) Standard Form 362 (see § 101-40.4901) is approved by the Office of Management and Budget under OMB control number 3090-0113.

(b) Claims for loss and damage to household goods shipments moving on a GBL shall be prepared on claim forms furnished by the carriers.

(c) The appropriate carrier against which the claim shall be filed is—

(1) Usually the destination line-haul carrier (not the drayage company or switching carrier performing the delivery service for the destination line-haul carrier) in instances of domestic

freight shipments made on Standard Form 1103 or a commercial bill of lading converted to a Government bill of lading or subject to the terms and conditions of the Government bill of lading;

(2) The household goods carrier specified on Standard Form 1203; or

(3) Usually the origin carrier on ocean or international air shipments.

When it is conclusively known on which carrier's line the loss or damage occurred, the claim may be filed against that carrier. When no part of the shipment has been delivered, the claim would normally be filed against the carrier which accepted the shipment.

[51 FR 24343, July 3, 1986; 51 FR 27539, Aug. 2, 1986]

§ 101-40.711 Collection of claims.

§ 101-40.711-1 Claims against domestic carriers.

Formal claims (Standard Form 362 with supporting documents) shall be filed with domestic carriers within the time limits noted in § 101-40.709.

(a) Rail carriers, motor carriers, inland water carriers, domestic forwarders, and other carriers subject to the Interstate Commerce Act (ICA), are required under 49 CFR subpart 1005.3 to acknowledge receipt of a formal claim in writing to the claimant within 30 days after receipt. In addition, 49 CFR subpart 1005.5 requires carriers which receive a written claim for loss or damage to property transported to pay, decline, or make a firm compromise settlement in writing to the claimant within 120 days after receipt of the claim by the carriers. If the claim cannot be processed or disposed of within the initial 120 days, the carriers at that time and at the end of each succeeding 60-day period, while the claim remains pending, shall advise the claimant in writing of the status of the claim and the reason for the delay in making final disposition thereof.

(b) When any carrier fails to dispose of a loss or damage claim within a reasonable period of time, agencies shall collect the claim by setoff action; i.e., withholding payments from amounts otherwise due and payable to the carrier for transportation and related

services. Earlier collection by setoff may be made if it is known that a carrier is involved in a bankruptcy, insolvency, or relocation proceeding, and it is clearly in the Government's interest to do so (4 CFR parts 102 through 105).

[51 FR 24343, July 3, 1986]

§ 101-40.711-2 Claims against ocean and international air carriers.

Regulations of the General Accounting Office (chapter 13, § 86.1, GAO Policy and Procedures Manual for Guidance of Federal Agencies) require that:

(a) When a loss or damage for which the carrier is administratively determined to be liable has occurred in an ocean or international air shipment, effort should be made to withhold an amount sufficient to reimburse the Government for the loss or damage from the carrier's bill covering the charges for the transportation or related services on the same shipment. If this is not possible, the withholding should be made from a payment due the carrier on an unrelated account. Notice to the carrier of withholding should request the carrier's consent to such action.

(b) If the carrier does not consent to the withholding action prescribed in paragraph (a) of this section, or if the claim is not otherwise compromised or withdrawn in accordance with 4 CFR part 103 or 104, referral of the matter shall be made to the Department of Justice for consideration of the need for suit to reduce the Government's claim to judgment. The referral shall be made at least 90 calendar days prior to the expiration of the 1-year period for bringing suit against ocean carriers (46 U.S.C. 1303(6)) or the 2-year period for bringing suit against international air carriers (Article 29 of the Warsaw Convention; 49 Stat. 3021).

[38 FR 28680, Oct. 16, 1973, as amended at 42 FR 25861, May 20, 1977; 51 FR 24343, July 3, 1986]

§ 101-40.712 Referral of loss and damage claims to the General Accounting Office or to the Department of Justice.

Loss and damage claims which cannot be collected, compromised, or terminated in accordance with 4 CFR