

Federal Property Management Regulations

§ 101-40.711-1

(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

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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 parts 102 through 104 shall be deter-

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mined uncollectible and reported to the General Accounting Office or the Department of Justice for appropriate action under criteria established by GAO under 4 CFR part 105.

[51 FR 24343, July 3, 1986]

§ 101-40.713 Clearing carriers of liability.

When it is determined as the result of investigation or evidence submitted by a carrier that loss or damage to a Government shipment is not the responsibility of the carrier, the consignee shall take necessary steps to clear the carrier of liability and to withdraw or amend any claim which may have been filed for recovery of losses. In this regard, the consignee shall prepare a document which will effectively remove or amend any exception that had been noted on the carrier's delivery documents. While no precise form or format is prescribed, this document shall be prepared in sufficient detail to identify the shipment and to show the basis for relieving the carrier of liability. This includes

(a) A reference to the Government bill of lading number or other transportation document;

(b) A detailed description of the property shipped;

(c) A reference to the exception taken to the quantity or condition of the property delivered;

(d) The number and date of any claim which has been filed with the carrier; and

(e) The basis on which the exception or claim is being withdrawn.

The consignee shall forward the original of this document to the carrier against whom the claim has been filed (or, in case the claim has not yet been filed, to the carrier that is billing for transportation charges or related services), and a copy shall be attached to the blue memorandum copy (Memorandum Copy-Consignee) of the bill of lading. In addition, the consignee shall send copies of the document to other offices involved in the initial claim action. (See the GSA handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (subpart 101-26.8), for reports required in