

**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 leaking, photographs of the damaged freight and/or of conditions of loading which might have contributed to the damage shall be made, whenever possible, for use as documentary evidence in the event of a claim. Each photograph shall be marked indelibly with the Government or commercial bill of lading number, the ocean or international air bill of lading number and/or the carrier's delivery receipt number, the vehicle identification number or vessel's name, and the date the photograph was taken. Photographs of damaged shipments delivered by ocean carriers shall be made at the ocean carrier's terminal prior to accepting the shipment.

[38 FR 28679, Oct. 16, 1973, as amended at 42 FR 25859, May 20, 1977]

§ 101-40.702 Documenting and reporting discrepancies.**§ 101-40.702-1 Exception on carrier's delivery receipt.**

(a) Before signing the carrier's delivery receipt, the Government consignee (or representative) shall note on the receipt specific details regarding the nature and extent of all apparent overages, shortages, losses, damages, or other discrepancies between the quantity and condition of the property as received and as shown on the covering bill of lading or other transportation document. Any notation placed on the carrier's delivery receipt shall also be shown on the consignee's copy of the delivery receipt or freight bill. The consignee shall sign and date these notations and request the carrier's driver or representative also to sign the notations.

(b) In the instance of an ocean shipment, placing an exception on the carrier's delivery receipt is not necessary if the condition of the shipment has been the subject of a joint survey or inspection; that is, if representatives of the carrier and the consignee jointly surveyed or inspected the shipment while it was still in the possession of the carrier, and a copy of the joint report signed by both representatives is in the possession of the consignee (46 U.S.C. 1303 (6)).

[38 FR 28679, Oct. 16, 1973, as amended at 42 FR 25859, May 20, 1977]

§ 101-40.702-2 Discrepancies in Government bill of lading shipments.

(a) When a shipment is made on a Standard Form 1103, U.S. Government Bill of Lading, or on a Standard Form 1203, U.S. Government Bill of Lading-Privately Owned Personal Property, the consignee shall make certain the Government bill of lading number is shown on both the carrier's delivery receipt and the consignee's copy of the delivery receipt. When a shipment is made on a commercial bill of lading to be converted to a Government bill of lading, in which case the Government bill of lading number would not normally be known at the time of delivery, the consignee shall sign the delivery receipt and enter the Government bill of lading number, when it becomes

available, on the consignee's copy of the delivery receipt.

(b) When a discrepancy occurs in a shipment made on a Government bill of lading, appropriate notations shall be made on the delivery receipt as required in § 101-40.702-1 and a discrepancy report shall be prepared as required in § 101-40.702-3.

(c) The agency responsible for payment of freight charges, as identified in the "Charges to be billed to" space on the Government bill of lading, is usually also responsible for determining carrier liability (see § 101-40.707-2) and processing claims (see § 101-40.710). The consignee shall forward a discrepancy report and copies of supporting documents; e.g., delivery receipts, photographs, and carrier's inspection reports, to that agency, to the shipper at the address shown on the Government bill of lading, and to any other addresses as may be required by the agency's regulations. In addition, copies of discrepancy reports and supporting documents relating to special categories of property shall be forwarded to appropriate offices as required in § 101-40.702-3 (c), (d), and (e).

[42 FR 25859, May 20, 1977, as amended at 51 FR 24341, July 3, 1986]

§ 101-40.702-3 Preparation of a discrepancy report.

(a) When the total value of the loss, damage, shortage, or other discrepancy, or the value of repairs or replacement, including unearned freight charges, where applicable, on a single bill of lading or other transportation document, does not exceed \$50, Government agencies are authorized, but not required, to observe a minimum of \$50 or less in processing loss and damage claims against carriers or forwarders and to absorb losses of \$50 or less.

(b) When the total value of the loss, damage, shortage, or other discrepancy, or the value of repairs or replacement, including unearned freight charges, where applicable, on a single bill of lading or other transportation document exceeds \$50 or the minimum (i.e., \$50 or less) set by the agency, the receiving activity shall prepare Standard Form 361, Transportation Discrepancy Report, as soon as possible, but not later than 45 calendar days after

receipt of the shipment or discovery of the discrepancy. Every effort shall be made to reconcile overages or shortages within 15 calendar days after discovery. (Suspected pilferage, theft, or loss during transit of narcotics, hazardous articles, or sensitive materials, regardless of dollar value, shall be reported to the appropriate agencies within 24 hours in accordance with paragraphs (c), (d), and (e) of this section.) Any photographs taken as documentary evidence (see §101-40.701(d)) should be attached to the discrepancy report to support claim action. Standard Form 361 (SF 361) (see §101-40.4901) is approved by the Office of Management and Budget under OMB reports control number 3090-0093. Guidelines for the preparation of SF 361 are contained in §101-40.4901-361-1. (See the GSA handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (subpart 101-26.8) for specific requirements for reporting discrepancies in shipments from GSA or DOD.)

(c) Pilferage, theft, or loss, regardless of dollar value, occurring in a shipment of narcotics or other controlled substances (as identified in 21 CFR 1308.11 through 1308.15), shall be reported by telephone within 24 hours after discovery to the agency or activity responsible for the shipment, and SF 361 shall be prepared and distributed immediately to any addressees as may be required by the agency's regulations. In addition, persons who are registered with the Drug Enforcement Administration (DEA) pursuant to 21 CFR part 1301 are required to complete DEA Form 106, Report of Theft or Loss of Controlled Substances, as prescribed in 21 CFR 1301.74(c).

(d) Pilferage, theft, or loss regardless of dollar value, occurring in a shipment of ammunition, explosives, or other hazardous articles (as identified in 49 CFR part 172) shall be reported by telephone within 24 hours after discovery to the agency or activity responsible for the shipment. In addition, SF 361 shall be prepared and distributed immediately to any addressees as may be required by the agency's regulations.

(e) Pilferage, theft, or loss, regardless of dollar value, occurring in a shipment of (1) security classified material, (2)

protected (sensitive) material; e.g., small arms, which are highly pilferable and have a ready use during civil disturbances or a sale potential in illicit markets, or (3) protected (controlled) material; e.g., money, negotiable instruments, precious metals, or alcoholic beverages, shall be reported by telephone within 24 hours after discovery to the agency responsible for the shipment. In addition, a written discrepancy report shall be prepared and distributed immediately.

[42 FR 25859, May 20, 1977, as amended at 43 FR 24063, June 2, 1978; 51 FR 24341, July 3, 1986; 51 FR 27539, Aug. 1, 1986; 52 FR 21034, June 4, 1987]

§ 101-40.703 Notification of carrier.

§ 101-40.703-1 [Reserved]

§ 101-40.703-2 Notice of visible loss, damage, or shortage.

(a) Usually, it is sufficient to notify the last line-haul or delivering carrier (not a drayage or switching carrier) of a shipment discrepancy by annotating the carrier's delivery receipt. This notation shall be entered on the consignee's copy of the delivery receipt. When the carrier's delivery receipt is not available at the time of delivery of the shipment, notification shall be made within 24 hours by telephone to the nearest office of the delivering carrier to provide the carrier an opportunity, if desired, to verify the loss, damage, or shortage. Except as provided in §101-40.702-3(a), in every instance of damage or shortage, the agency shall notify the carrier on SF 361 within 7 calendar days of receipt of the shipment and invite the carrier to perform an inspection, except in those instances where it is known that the total amount of damage or shortage, or the value of repairs or replacement, including unearned freight charges, on a single bill of lading or other transportation document, does not exceed \$50. If the carrier waives the opportunity to perform an inspection, the responsible Government employee receiving the shipment shall make a written record of the waiver, including the date the request for inspection was made and the name of the carrier representative

who was contacted and waived inspection. In the instance of an international shipment by an ocean or air carrier, SF 361 shall be furnished the carrier before the property is removed from the carrier's possession, except as provided in §101-40.702-1(b).

(b) If the damaged property is of a perishable nature or is in such a condition as to be potentially injurious to life, health, or property, prompt notification to the carrier shall be made by telephone and confirmed in writing. If the carrier fails to perform a timely inspection and to participate in the disposition proceedings, necessary steps shall be taken to dispose of the property in a manner which will mitigate the loss to the carrier and avoid injury to other property or persons.

(c) In the instance of a domestic shipment, if the lost or damaged shipment involves nonperishable material, the property shall be held for a reasonable time (usually 5 workdays after notification) to allow the carrier time to complete inspection.

(d) When an entire shipment is lost, the consignee shall notify the origin carrier by telephone and use SF 361 to confirm the notification.

[42 FR 25860, May 20, 1977, as amended at 51 FR 24341, July 3, 1986; 51 FR 27539, Aug. 2, 1986]

§ 101-40.703-3 Notice of concealed loss, damage, or shortage.

(a) *Domestic shipments.* When loss, damage, or shortage that was not apparent at the time of delivery is subsequently discovered, and the total amount of loss, damage, or shortage, including unearned freight charges, where applicable, on a single bill of lading or other transportation document, is known to exceed \$50 or the amount (\$50 or less) set by the agency pursuant to §101-40.702.3(a), the delivering carrier (not a drayage or switching carrier) shall be notified by telephone and requested to inspect the property involved. Unless there are extenuating circumstances, the notification and request for inspection shall be made by telephone not later than 15 calendar days from the date of receipt of the shipment and confirmed on SF 361. SF 361 shall include the date the telephone request for inspection was made and

the name of the carrier's representative who was contacted. A copy of the notification and request for inspection shall be retained for possible claim purposes. Wrappings, packing materials, and any unopened packages shall be retained for the carrier's inspection. A copy of the carrier's inspection report shall be requested for use in determining liability or preparing a claim. If the carrier fails to make an inspection within a reasonable time as stated in §101-40.703-2(c), or if the carrier waives the opportunity to perform an inspection, the carrier shall furnish an oral or written waiver as provided in SF 361.

(b) *International shipments.* When loss, damage, or shortage that was not apparent at the time of removal of the property from the carrier's possession is subsequently discovered when the packages are opened, the carrier shall be notified promptly in writing using SF 361. When an ocean carrier is involved, the written complaint shall be given to the carrier or its agency at the port of discharge within 3 calendar days of delivery (46 U.S.C. 1303(6)). When an international air carrier is involved, a written complaint to the carrier shall be given within 14 calendar days of receipt of the property (Article 26 of the Warsaw Convention, 49 Stat. 3020, as interpreted and applied by the Civil Aeronautics Board in its Order 78-8-10 of August 3, 1978). Written notice to ocean and international air carriers shall indicate a reasonable period of time for inspecting concealed loss or damage.

[51 FR 24342, July 3, 1986; 51 FR 27539, Aug. 2, 1986, as amended at 52 FR 21034, June 4, 1987]

§ 101-40.704 Disposition of damaged property.

§ 101-40.704-1 Transportation for account of the Government.

(a) *Repair and utilization.* Where damaged property can be repaired economically and satisfactorily, arrangements shall be made by the Government agency paying the transportation charges, or its authorized representative, to have the repairs effected and to claim against the carrier for the costs thereof. Alternatively, the carrier may be allowed to perform the repairs or make

the necessary arrangements therefor, subject to inspection and acceptance by Government agency inspectors or other designated representatives. However, in no case shall property subject to security regulations be released to the carrier or to any unauthorized personnel for repair.

(b) *Allowance for damage.* When the agency finds it not desirable or feasible to make repairs immediately, and the carrier does not make repairs, the amount of damage or the cost of making repairs in the future may be determined by appropriate means (e.g., by mutual agreement of representatives of the carrier and the Government or by estimates obtained from qualified and disinterested parties).

(c) *Rejection.* (1) Property may be rejected to the carrier and claim made for its full value only when it has been damaged to the extent that it has no salvage value or it is not economically repairable; that is, the cost of repairs would exceed the appraised value of the repaired item (see exception in paragraph (c)(3) of this section).

(2) When it is determined that property has been damaged to the extent that it has no salvage value or is not economically repairable, and that it can be abandoned, the carrier shall be notified promptly of the location of the rejected property and shall be requested to make appropriate disposition of it.

(i) If the carrier refuses to accept the rejected property, the agency shall request, in writing, that the carrier furnish a written statement of the reason for refusing the property. Upon receipt of the written refusal, the agency shall take appropriate action to dispose of the rejected property; or

(ii) If the carrier fails to make appropriate disposition of the rejected property within a reasonable length of time, the agency shall notify the carrier, in writing, that the property will be disposed of by the agency without further delay.

(3) Property which is designated Top Secret, Secret, or Confidential, or property which, for any reason, cannot be abandoned in the best interests of the Government, shall not be rejected

to the carrier, regardless of the extent of damage.

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

§ 101-40.704-2 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 property is purchased f.o.b. destination), accurate notations of discrepancies shall be made on the carrier's delivery receipt and the consignee's copy of the carrier's delivery receipt or freight bill to assist the supplier in filing claims for transportation losses. The carrier's driver or representative shall be requested to sign the notations of discrepancies. Prompt notification on SF 361 shall be furnished to the supplier or to the agency contracting officer as individual agency regulations may provide. The notification shall include supporting documents; i.e., a copy of the annotated delivery receipt, photos, carrier's inspection report, or written waiver. (See Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101-26.8) with regard to damage to stock or nonstock items procured from GSA for direct delivery.)

[51 FR 24342, July 3, 1986]

§ 101-40.705 Disposition of overages and astray or misconsigned shipments.

(a) When the number of packages offered for delivery is more than that shown on the applicable bill of lading 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 proce-

dures 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]

§ 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 deter-

mined 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 determined 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 connection with shipments from GSA or DOD.)

[42 FR 25861, May 20, 1977]

Subparts 101-40.8—101-40.48 [Reserved]

Subpart 101-40.49—Forms

SOURCE: 51 FR 24343, July 3, 1986, unless otherwise noted.

§ 101-40.4900 Scope of subpart.

This subpart provides the means for obtaining forms prescribed or available for use in connection with the subject matter covered in part 101-40. These

forms are designed to provide uniform methods of requesting and transmitting transportation advice and assistance, uniform documentation of transactions between Government agencies, the Government and the transportation industry, and related industries.

§ 101-40.4901 Standard forms; availability.

Standard forms referenced in this part, unless otherwise provided in the section prescribing the form, may be obtained by submitting a requisition in FEDSTRIP format to the GSA regional office providing support to the requesting agency.

§ 101-40.4901-361-1 Guidelines for preparation of Standard Form 361, Transportation Discrepancy Report (Rev. 3-84).

See § 101-40.4901 for information on obtaining Standard Form 361.

SECTION A

General

a. The March 1984 edition of Standard Form 361, Transportation Discrepancy Report, requires the use of codes for certain information. A stub attached to the top of the form provides instructions concerning where to locate these codes for civilian agencies and the Department of Defense (DOD). The codes furnished in this section are uniform for civilian agency use in preparing the Transportation Discrepancy Report (TDR).

b. The TDR is a two part form. Part I covers blocks 1 through 33, and part II covers blocks 34 through 47. Part I is used to request information from the shipper, give notification to the carrier concerning any discrepancy in the shipment, or report any miscellaneous problem which interferes in the timely and proper movement of freight. The proper block indicating the type of discrepancy being reported should be checked. After part I has been completed and all supporting documentation for claim has been assembled, part II will be used to support formal claims filed with the carrier/supplier. The information as contained in Part II will not be disclosed to the carrier/supplier. Blocks 46 and 47 are primarily for use by DOD.

Block Details. The following are detailed instructions for completing the TDR.

BLOCK NUMBER, TITLE, AND DATA ENTRY

1. *DATE.* Current Julian date on which report is prepared; e.g., January 30, 1984, would be entered as 4030.