

FREIGHT CLAIM GUIDE

The first question people want to know when something goes wrong is who is responsible. This happens in car accidents, bodily injury lawsuits, and of course, freight claims. In third-party logistics, it could be the shipper's fault, the carrier's fault, or the receiver's fault.

But the Carmack Amendment, a Congressional law passed in 1935, exists to make all our lives easier. It holds a great deal of weight regarding who is responsible for what when it comes to cargo loss. It clearly states that carriers hold the liability for freight, with a few exceptions.

It is helpful to know what these exceptions are when you file your claim.* A motor carrier can deny your claim for damage for the following reasons:

- » **An Act of God**—what constitutes an act of God? Examples include major weather events such as floods, hurricanes, tornadoes. Another example would be if the driver had a stroke or a heart attack.
- » **The Public Enemy**—this is applied primarily during wartime when freight gets destroyed from military forces and acts of violence against the government.
- » **Act or Default of Shipper**—if the carrier can prove that the damage was caused by negligence on the shipper's part, such as poor packaging, improper loading, or securing, the carrier cannot be held liable.
- » **Public Authority** (the government)—this exception may be pertinent during the COVID-19 crisis because it states that any damages or losses due to quarantines, road closures, product recalls, or trade embargoes caused by the government will be an exception to the carrier's liability.
- » **The Inherent Vice or Nature of the Goods Transported**—many goods are classified as "inherent vice" items, such as cheeses, produce, and other exempt commodities that are perishable. If the motor carrier can prove that they were not negligent (for example, if they proved that they followed instructions on temperature and handling) and the product decayed due to its inherent nature, the carrier may not be held liable.

A contract can be used to overrule any part of the Carmack Amendment. Make sure you read all shipping contracts carefully and understand them thoroughly. If you are not sure about something, don't be shy, consult with an attorney. The bottom line is that if you sign it, it is binding.

*The Carmack Amendment does not apply to intrastate claims, only interstate claims.

4 TYPES OF CARGO CLAIMS

- ➔ **LOSS:** Freight is picked up from an origin but never delivered to its destination.
- ➔ **DAMAGE:** Goods are discovered as damaged upon arrival at the destination and must be noted on the bill of lading. This type is the most common kind of freight claim.
- ➔ **CONCEALED:** This is the most challenging kind of claim to prove. You technically only have five days to file this type of claim. After that, it can be challenging to prove the damage didn't happen after receipt of the freight. Damage or loss is discovered 'after the fact' meaning after the delivery happens and the driver leaves. By doing a thorough inspection when the freight arrives, this type of claim can be avoided.
- ➔ **SHORTAGE:** When only a portion of the freight that is listed on the bill of lading arrives, you have a shortage. If it is well documented when discovered at the time of delivery, a claim should be quick and easy.

HOW TO GET THE BEST COVERAGE FOR YOUR FREIGHT

It is also essential to know the difference between freight insurance and limited liability coverage. They are similar in that they cover the loss and damage of freight cargo, but there are quite a few key differences too.

Limited liability coverage takes into consideration the commodity or its freight class, and puts a value per pound on it, up to a certain amount. Sometimes the liability coverage turns out to be less than that actual value of the cargo. This can be problematic if there is a claim because it won't cover the full amount of the shipment's real value.

Freight insurance, on the other hand, is an additional charge based primarily on the value of the goods being shipped. As mentioned before, limited liability coverage only covers up to a certain dollar amount per pound, and sometimes that is not enough. Freight or cargo insurance can make up the difference. It also takes the burden of proof off of you. You only need to prove that the damage or loss happened, and not who was at fault.



FREIGHT CLAIMS FAQs

Are OS&Ds the same as freight claims?

No, not all OS&Ds become freight claims. OS&Ds must be noted on the signed BOL at the time of delivery, (or later notated as a “concealed” claim, meaning the damage or loss was discovered after delivery, and after the driver has left the facility). OS&Ds become freight claims when compensation is requested for the damage or shortage.

Can I throw away the damaged freight?

No, do not dispose of or otherwise compromise any damaged freight. The carrier will most likely want to inspect it, so until the claim is settled, or you have permission to dispose of it from the carrier, keep the freight, and it's packaging on hand until a disposition is made.

How long does it typically take to settle a claim?

Most cases are settled very quickly, within 30 days of receipt of all required paperwork. Depending on the nature of the claim, however, it can sometimes take longer than 30 days for more complex cases. If there are disputes and it goes to court, it could take up to a year or more. To make sure your claim is handled as expediently as possible, make sure all the proper documentation is submitted at the start of the process.

Are photos required to make a claim?

Always take photos with a digital camera. Also, make as many detailed notes as you can, describing the exact damage, such as “6 boxes damaged, three out of 8 cases destroyed.” Photos are usually part of the requirement when making a claim and will improve your chances of having the claim paid.

Do I need to report it right away?

Yes, this is probably the #1 most important thing to do when making a freight claim. The minute you discover it, document it, and notify all the involved parties immediately. Time is not your friend when it comes to freight claims. The Carmack Amendment allows for up to nine months from the date of delivery to file a claim, but the sooner you submit, the better chances of getting the most from your request.

What does FOB mean, and how can it affect my freight claim?

FOB is an acronym for free onboard (or some people say freight on board). Knowing the exact wording of the FOB on a bill of lading determines who is liable for any damages or losses to a shipment. Here are the four typical variations on the terminology.

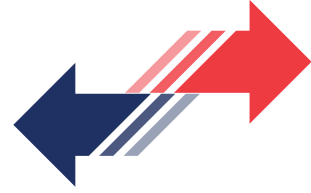
FOB: ORIGIN – FREIGHT PREPAID: this means the shipper, or seller, pays the cost of shipping, and the receiver, or buyer, assumes the responsibility of freight at the point of origin.

FOB: ORIGIN —FREIGHT COLLECT: this means the buyer pays for the freight costs and assumes full responsibility for the freight.

FOB: DESTINATION—FREIGHT COLLECT: this means the receiver or buy, is responsible for paying the freight upon delivery of the shipment. The buyer takes ownership when the goods are delivered to the buyer's destination.

FOB: DESTINATION —FREIGHT PREPAID: this is when the seller, or shipper, pays the freight charges and is responsible for the cargo while it is in transit.

FREIGHT CLAIMS CHECKLIST



Once you have determined that a claim needs to be filed, be prepared to supply the necessary documentation to support the claim. Here is a list of items you may need to present:

- » **PROOF OF DELIVERY (POD)**
- » **INSPECTION REPORT** if there is one
- » **PHOTOS OF DAMAGED GOODS** (packaging and product)
- » **ORIGINAL INVOICE and BOL** showing costs of goods
- » **PROOF OF REPLACEMENT VALUE/ ESTIMATE**
- » **THE PAID FREIGHT BILL**
- » **WAIVERS** if applicable
- » **TEMPERATURE REPORTS** if a reefer load
- » **WEIGHT CERTIFICATES**



3PLS CAN HELP WITH CUSTOMER CLAIMS AS PART OF THEIR VALUE-ADDED SERVICES

One of the many value-added features of working with a freight broker, or 3PL such as Choptank Transport, is that they can assist with the tedious task of filing a claim, such as gathering all pertinent documents and submitting the scads of required paperwork.



Choptank Transport is a full-service 3PL or third-party logistics company offering truckload, LTL, reefer or dry, intermodal, cross-docking, container services, heavy haul, and more specialized freight services. Check out our service guide. Our corporate headquarters is located in Preston, MD, with additional offices in Baltimore, Tampa, Denver, Dallas, and Atlanta.

Choptank serves the United States, Canada, Mexico and other international destinations. For the past decade we continue to have one of the fastest growth rates in the industry and numerous awards for customer service and employee satisfaction.

For over 20 years, we've been building a team that has a passion for customer service and enjoys each other's company.

Our main goal is to utilize our relationships along with our carrier network and the latest technology to get our customers the best rate and fastest delivery time for their products.



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