

**§ 4284.1014 Grant closing.**

(a) *Letter of Conditions.* The Agency will notify an approved applicant in writing, setting out the conditions under which the grant will be made.

(b) *Applicant's intent to meet conditions.* Upon reviewing the conditions and requirements in the letter of conditions, the applicant must complete, sign and return the Agency's "Letter of Intent to Meet Conditions," or, if certain conditions cannot be met, the applicant may propose alternate conditions to the Agency. The Agency must concur with any changes proposed to the letter of conditions by the applicant before the application will be further processed.

(c) *Grant agreement.* The Agency and the grantee must enter into an "Agriculture Innovation Center Grant Agreement" prior to the advance of funds.

**§§ 4284.1015–4284.1099 [Reserved]****§ 4284.1100 OMB control number.**

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0570–0045.

Dated: April 21, 2004.

**Gilbert Gonzalez,**

*Acting Under Secretary, Rural Development.*

[FR Doc. 04–9671 Filed 4–28–04; 8:45 am]

BILLING CODE 3410–XY–P

**POSTAL SERVICE****39 CFR Part 111****Indemnity Claims for Domestic Mail**

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the regulations for indemnity claims as set forth in the *Domestic Mail Manual* (DMM) S010, Indemnity Claims, and related provisions of DMM S913, Insured Mail, and DMM S921, Collect on Delivery (COD) Mail. Other than the changes concerning time periods for filing claims and retention periods for undelivered accountable mail, the changes clarify existing DMM provisions or codify, in the DMM, policies not currently set forth in that manual.

**DATES:** May 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Jim Pretlow, 202–268–5389

**SUPPLEMENTARY INFORMATION:** In a proposed rule published in the **Federal**

**Register** on December 6, 2002 [Vol. 67, No. 235, pages 72626–72629], the Postal Service proposed to revise the procedures in the *Domestic Mail Manual* (DMM) for filing indemnity claims, to clarify the standards for payment of claims, and to incorporate policies not currently set forth in the DMM. (**Note:** Two minor procedural changes contained in the proposed rule have been eliminated in the final rule: elimination of local adjudication and the ability to enter claims via the web. Also, the word "sender" has been changed to "mailer"). One comment was received. After thorough consideration of the issues raised in this comment, the Postal Service adopts the proposed revisions with the modifications discussed below.

The revisions to the procedures for filing claims are made in conjunction with the redesign of the Postal Service's claim system and are intended to facilitate the provision of more timely decisions to Postal Service customers' claims. For example, customers are permitted to file claims sooner in some circumstances, thereby allowing decisions to be made closer to the mailing date. In addition, either the mailer or the addressee, whoever is in possession of the original mailing receipt, will be permitted to file a claim for the complete loss of a numbered Insured Mail, Registered Mail, collect on delivery (COD), or Express Mail article. Under past rules, only the mailer was permitted to submit such claims. The revisions do not change the procedures for unnumbered Insured Mail (articles insured for \$50 or less). As before, only the mailer will be allowed to file a claim for the complete loss of an unnumbered Insured Mail article.

The revisions also provide further clarification of what is acceptable evidence of value, codifying current policies into the DMM. Claims for damage require that the article and mailing container, including any wrapping, packaging, and any other contents that were received must be presented by the addressee to the Postal Service for inspection regardless of whether the mailer or addressee files the claim.

The new revisions will also:

(1) Clarify situations under which indemnity will not be paid, ensuring that current policies are codified in the DMM.

(2) Provide that the original sales receipt from a Postal Service retail terminal, listing the mailing receipt number and insurance amount, is acceptable evidence of insurance when the original mailing receipt is not available.

(3) Provide that initial appeals must be sent directly to Claims Appeals at the St. Louis Accounting Service Center (ASC), except appeals for unnumbered Insured Mail articles, which must be mailed to the Post Office™ where the claim was filed.

(4) Clarify the time limit in which a customer may forward a final appeal to the Consumer Advocate at Headquarters.

(5) Clarify that a mailer of a COD article may not stipulate "Cash Only."

**Discussion of Comments**

A summary of the comments and our analysis of each follows:

1. S010.2.2. The commenter raised two issues regarding the changes in the time for filing a claim for a lost or damaged COD article. First, the commenter stated that the requirement for waiting 45 days before filing a claim for a lost COD article is excessive compared to the timeframe for mail receiving other special services.

The Postal Service does not believe the proposed rule should be changed. Since handling procedures differ depending on the special service provided, it is inappropriate to establish uniform limits for filing claims. A COD article may be held at a delivery unit for up to 30 days before being returned to the mailer if unclaimed by the addressee (see DMM, D042.1.7.f). It should also be noted, the Postal Service proposal reduced the current waiting period for filing a claim for a lost COD article from 60 days to 45 days. As for other classes of mail or service, the new time frames took into consideration that the holding period is 5 days for Express Mail items and 15 days for Insured Mail or Registered Mail items.

Secondly, the commenter objected to the new requirement that a customer must file a claim no later than 45 days from the date of mailing when the contents of an article are damaged or missing from the container. The commenter states that if the COD article were not delivered until the 45th day after mailing, the mailer could not file a damage claim because the 45 days would have already passed.

The Postal Service believes there is merit in the concern raised. Accordingly, the Postal Service will revise the proposed rule to allow customers to submit damage claims no later than 60 days from the mailing date.

2. S010.2.5.a. The commenter states that the requirement for the original postmarked mailing receipt is inappropriate in that not all receipts will be postmarked. The Postal Service agrees that it erred in that Express Mail and point of service (POS) retail

terminal imprinted receipts do not require a postmark. Therefore, the original postmarked receipt will be required for Insured Mail, Registered Mail, and COD items only. This is due to the fact that anyone can pick up a receipt in a Post Office lobby for Insured Mail or Registered Mail items and get a COD tag over the counter.

The commenter also states that the requirement for the original receipt is inappropriate in the case of Registered Mail or Express Mail items when the Postal Service has a copy of the mailing receipt, and can validate the claim because the mailer has provided the article number and date of mailing either from a photocopy or from other records.

The Postal Service does not believe the rules should be amended to accommodate this suggestion. The requirement for the original receipt is to ensure that the proper party is indemnified. It is the customer's responsibility to provide the proof of insurance evidenced by an original mailing receipt. Moreover, under existing procedures, mailers utilizing these services are also permitted to submit the mailing wrapper as evidence of insurance.

3. S010.2.6.b. The commenter states that the addition of the phrase, "For items valued up to \$100," appears to be a major change. The Postal Service maintains this revision does not represent a change in policy but merely codifies current policy. Acceptance of a customer's statement of value, in lieu of actual evidence of value, creates an opportunity for abuse, particularly when permitted for higher value items.

The commenter also suggests that Postal Service retail clerks should inform mailers what evidence will be needed to support claims. The Postal Service trains sales and services associates to be able to provide this information to customers. In addition, the Postal Service has taken steps to make this information available through a wide variety of public sources. This information is printed on the back of the mailing receipts. Customers may call our toll-free number for information at 1-800-ASK-USPS. The same information is also contained in the DMM, which can be accessed through <http://pe.usps.gov>.

The commenter also asserts that eliminating reimbursement of the cost of labor from handmade items is too broad. The Postal Service offers coverage for the value of goods, based on the established value in the marketplace, whether or not those goods are handmade. However, where the item mailed is not commonly sold (e.g. a

hobby, craft, or similar handmade item), there is no established value. In that case, the Postal Service provides compensation for the costs of the materials used, but not for the time used in making it. The Postal Service will amend the proposed rule to clarify this policy.

4. S010.2.6.h. The commenter requests clarification of this proposed rule referring to a printout of a transaction that is made on the Internet. This comment pertains to the proposal for the provision of evidence of value for goods obtained through Internet transactions. These transactions are typically conducted through a Web-based payment network that offers payment services through a stored value account, commonly used to buy or sell items at online auctions.

For transactions involving the use of a credit card online or payment by check, a copy of a credit card statement or canceled check could serve as evidence of value. The Postal Service will amend the proposed rule to clarify this policy.

5. S010.2.14.r. The commenter states that this section appears to require the use of Registered Mail service for obtaining insurance on negotiable items, currency, or bullion, which would be a change in current policy.

Although the Postal Service generally recommends that customers send these items as Registered Mail items, it did not intend to eliminate the option of mailing them as Insured Mail items. Accordingly, in order to avoid confusion, the Postal Service will withdraw this proposed change to the DMM.

6. S010.2.14.ae. The commenter objects to the proposed regulation that event or transportation tickets, received after the event, are not insured when there is a provable loss because of the delay and the article was mailed using Express Mail service. With Express Mail service's guaranteed delivery time, if the article is not delivered by that time, and a provable loss results from the delay in delivery, then, the commenter argues, the loss should be covered by Postal Service insurance.

The commenter raised a valid concern and the final rule incorporates an exception for Express Mail service.

7. S010.2.14.af. The commenter objects to this revision regarding nonpayable claims for software installed onto computers that have been lost or damaged. The commenter states that if one paid to have software loaded on the lost or damaged computer, then the insurance should cover the cost of having the same software installed on a replacement computer. In addition, if

software, recorded on compact disc or diskette(s), enclosed with the computer when shipped is also lost or damaged, it should be covered by the insurance purchased.

The Postal Service does not believe a change in the rule is warranted. Software loaded onto personal computers is licensed for use to the purchaser. Whether on compact disc or diskette(s), the software provides the purchaser the ability to reinstall the software on a computer. Software is generally designed to self load when the appropriate drive is selected with limited prompting or assistance from an individual. Also, a replacement personal computer typically will include replacement software. Software on a medium, such as compact discs or diskettes, recognized as a means to load the software onto a computer, would be covered for loss or damage dependent upon the amount of insurance coverage purchased at the time of mailing.

8. S010.2.14.ag. The commenter observes that this proposed rule does not comply with the provisions stated in S921.1.5, Fee and Postage, in that it states that if the mailer does not receive the personal check that was mailed by the delivery Post Office, it will be the mailer's responsibility to obtain a replacement check from the addressee. The fees for COD service include insurance against failure to receive a postal money order or the recipient's check.

The Postal Service agrees that the proposed rule is in conflict with S921.1.5, and, therefore, the proposed rule is withdrawn.

9. S010.2.14.ai. The commenter states that the concept of personal time should be clarified.

The commenter previously raised this issue in item 3 and it was addressed by the Postal Service above.

10. S913.2.7. The commenter raises the same issue as identified in item 2 regarding the requirement that all mailing receipts have a postmark (round date).

The Postal Service does not believe the proposed rule should be changed. This revision relates to Insured Mail receipts, PS Form 3813, Receipt for Domestic Insured Mail Parcel, or PS Form 3813-P, Insured Mail Receipt. There is an area on each of these receipts annotated either "Postmark of Mailing Office," or "Postmark Here," that clearly indicates that a postmark (round date) or POS retail terminal imprint, which includes a date, is required. Because these Postal Service mailing receipts are readily available in retail lobbies, a postmark or POS retail terminal imprint is required in order to

provide validation that the special service was actually purchased.

Based on the reasons discussed above, the Postal Service hereby amends the following standards of the DMM, incorporated by reference into the *Code of Federal Regulations* (CFR). See 39 CFR Part 111.

**List of Subjects in 39 CFR Part 111**

Administrative practice and procedure, Postal Service.

**PART 111—[AMENDED]**

■ 1. The authority citation for 39 CFR Part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

■ 2. The following sections of the *Domestic Mail Manual* (DMM) are revised as set forth below:

**Domestic Mail Manual (DMM)**

\* \* \* \* \*

**S Special Services**

**S000 Miscellaneous Services**

**S010 Indemnity Claims**

\* \* \* \* \*

**2.0 GENERAL FILING INSTRUCTIONS**

**2.1 Who May File**

A claim may be filed by:

*[Reletter current items a, b, c, and d as new items b, c, d, and e. Add new item a to read as follows:]*

a. Only the mailer, for the complete loss of an unnumbered Insured Mail article.

*[Revise new item b to read as follows:]*

b. Either the mailer or addressee, who is in possession of the original mailing receipt, for the complete loss of a numbered Insured Mail, Registered Mail, COD, or Express Mail article.

\* \* \* \* \*

**2.2 When To File**

*[Revise 2.2 to read as follows:]*

A customer should file a claim immediately, but no later than 60 days from the date of mailing, when the contents of an article are damaged or missing from the mailing container. For a lost article, a customer must file a claim within the time limits in the chart below.

Mail type or service	When to file (from mailing date)	
	No sooner than (in days)	No later than (in days)
Insured Mail .....	21	180
COD .....	45	180
Registered Mail .....	15	180
Registered COD .....	45	180
Express Mail .....	7	90
Express Mail COD .....	45	90
APO/FPO Insured (First-Class Mail, SAM, PAL, or COD) .....	45	180
APO/FPO Insured (Surface Only) .....	75	180

\* \* \* \* \*

**2.4 How To File**

*[Revise 2.4 to read as follows:]*

A customer may file a claim by presenting evidence of insurance, evidence of value, proof of damage, and for unnumbered Insured Mail claims only, proof of loss. (Proof of loss is not required for numbered Insured Mail, Registered Mail, COD, or Express Mail claims.) If the article was mailed Express Mail COD or Registered Mail COD, the claimant must provide both the original COD receipt with either the Express Mail or the Registered Mail receipt. The customer must complete the applicable spaces on PS Form 1000.

**2.5 Evidence of Insurance**

For a claim involving Insured Mail, Registered Mail, COD, or Express Mail service, the customer must present any of the following evidence showing that the particular service was purchased:

\* \* \* \* \*

*[Revise item a to read as follows:]*

a. The original mailing receipt issued at the time of mailing (Insured Mail, Registered Mail, and COD receipts must

contain a USPS postmark). Reproduced copies are not acceptable.

\* \* \* \* \*

*[Insert item d to read as follows:]*

d. The original sales receipt from the USPS listing the mailing receipt number and insurance amount, if the original mailing receipt is not available. Reproduced copies of the USPS sales receipt are not acceptable.

**2.6 Evidence of Value**

*[Revise introductory text to read as follows:]*

The customer, either the mailer or the addressee, must submit acceptable evidence to establish the cost or value of the article at the time it was mailed. (Other evidence may be requested to help determine an accurate value.)

Examples of acceptable evidence are:

\* \* \* \* \*

*Revise item a to read as follows:*

a. Sales receipt, invoice or bill of sale, or statement of value from a reputable dealer.

*[Revise item b to read as follows:]*

b. For items valued up to \$100, the customer's own statement describing the lost or damaged article and including the date and place of

purchase, the amount paid, and whether the item was new or used (only if a sales receipt or invoice is not available). If the article mailed is a hobby, craft, or similar handmade item, the statement must include the cost of the materials used in making the item. The statement must describe the article in sufficient detail to determine whether the value claimed is accurate.

\* \* \* \* \*

*[Add new item g to read as follows:]*

g. A copy of a canceled check, money order receipt, credit card statement, or other documentation indicating the amount paid. For Internet purchases, a copy of the front and back of the canceled check, money order, or a copy of the credit card billing statement is required.

*[Add new item h to read as follows:]*

h. For Internet transactions conducted through a Web-based payment network that offers payment services through a stored value account, provide a computer printout of an online transaction identifying the purchaser and seller, price paid, date of transaction, description of item purchased, and assurance that the transaction status is completed. The

printout must clearly identify the Web-based payment network provider through which the Internet transaction was conducted.

2.7 Missing Contents

[Revise 2.7 to read as follows:]

If a claim is filed because some or all of the contents are missing, the addressee must present the mailing container, including any wrapping, packaging, and any contents that were received, to the USPS with the claim. Failure to do so will result in denial of the claim.

2.8 Damage

[Revise 2.8 to read as follows:]

If the addressee files the claim, the addressee must present the damaged article and mailing container, including any wrapping, packaging, and any other contents that were received, to the USPS for inspection. If the mailer files the claim, the St. Louis ASC will notify the addressee by letter to present the damaged article and mailing container, including any wrapping, packaging, and any other contents that were received, to the USPS for inspection. Failure to do so will result in denial of the claim.

2.9 Proof of Loss

[Revise 2.9 to read as follows:]

The mailer must provide proof of loss for unnumbered Insured Mail only. Proof of loss is not required for numbered Insured Mail, Registered Mail, COD, or Express Mail claims. The mailer must present written and signed documentation from the addressee (such as a letter) dated at least 21 days from the date of mailing, stating the addressee did not receive the article.

[Delete items a, b and c.]

2.10 Duplicate Claim

[Revise 2.10 to read as follows.]

A customer must file any duplicate claim no sooner than 30 days and no later than 60 days from the date the original claim was filed.

[Delete the table.]

\* \* \* \* \*

2.14 Nonpayable Claims

[Revise introductory text to read as follows:]

Indemnity is not paid for Insured Mail, Registered Mail, COD, or Express Mail in these situations:

\* \* \* \* \*

[Add items ac through ah to read as follows:]

ac. Mailer refuses to accept delivery of the parcel on return.

ad. Mail not bearing the complete names and addresses of the mailer and addressee, or is undeliverable as

addressed to either the addressee or mailer.

ae. Event or transportation tickets (e.g., concert, theater, sport, airline, bus, train, etc.) received after the event date. Such items are insured for loss, but not for delay or receipt after the event date for which they were purchased unless sent by Express Mail and the loss is attributable solely due to the failure to meet the guaranteed delivery standard under the terms and conditions for the Express Mail offering selected.

af. Software installed onto computers that have been lost or damaged.

ag. Damaged articles not claimed within the prescribed time limits set forth in Postal Operations Manual 146.3.

ah. Personal time used to make hobby, craft, or similar handmade items.

\* \* \* \* \*

3.0 PAYMENT

\* \* \* \* \*

3.3 Dual Claim

[Revise 3.3 to read as follows:]

If the mailer and the addressee both claim insurance and cannot agree on which one should receive the payment, any payment due is made to the mailer unless the claim has already been paid to the addressee upon presentation of the original mailing receipt.

\* \* \* \* \*

4.0 ADJUDICATION

\* \* \* \* \*

4.2 Appeal

[Revise the first sentence of 4.2 to read as follows:]

A customer may appeal a claim decision by filing a written appeal within 60 days of the date of the original decision. Except for an unnumbered Insured Mail article, the customer must send the appeal directly to Claims Appeals at the St. Louis ASC (see G043 for address). For an unnumbered Insured Mail article, the customer must send the appeal to the Post Office where the claim was filed. That Post Office forwards the appeal to the manager of Claims Appeals at the St. Louis ASC.

4.3 Final USPS Decision

[Revise 4.3 to read as follows:]

If the manager of Claims Appeals at the St. Louis ASC sustains the denial of a claim, the customer may submit an additional appeal within 60 days for final review and decision to the Consumer Advocate, USPS Headquarters (see G043 for address), who may waive the standards in S010 in favor of the customer.

\* \* \* \* \*

[Delete 5.0. Sampling process will be discontinued with the implementation of CCRS.]

\* \* \* \* \*

S900 Special Postal Services

S910 Security and Accountability

\* \* \* \* \*

S913 Insured Mail

\* \* \* \* \*

2.0 MAILING

\* \* \* \* \*

2.7 Receipt

[Revise 2.7 to read as follows:]

For each Insured Mail article mailed, the mailer receives a USPS sales receipt and the appropriate postmarked (i.e., round date) Insured Mail form as follows:

a. Form 3813 when the insurance coverage is \$50 or less.

b. Form 3813-P when the insurance coverage is more than \$50.

\* \* \* \* \*

S920 Convenience

\* \* \* \* \*

S921 Collect on Delivery (COD) Mail

1.0 Basic Information

1.1 Description

[Insert text after first sentence to read as follows:]

\* \* \*The recipient has the option to pay the COD charges using either cash or personal check. Only one form of payment may be used for a single mailpiece.\* \* \*

\* \* \* \* \*

3.0 MAILING

\* \* \* \* \*

3.4 Indelible Ink, Mailer Errors

[Revise 3.4 to read as follows:]

The particulars required on the COD form must be handwritten with ink, typewritten, or computer printed. The USPS is not responsible for errors that a mailer makes in stating the charges to be collected. The mailer cannot stipulate "Cash Only" on the COD form.

\* \* \* \* \*

We will publish an appropriate amendment to 39 CFR 111.3 to reflect these changes.

Stanley F. Mires, Chief Counsel, Legislative.

[FR Doc. 04-9750 Filed 4-28-04; 8:45 am]