

the criteria, if the geographic distance from a heavily populated portion of the county is sufficient to support a contention that the area should qualify as sheltered.

For areas not meeting the sheltered criteria, any CDC who can service a loan would be allowed to make a loan. All existing CDCs would be grandfathered into their current areas of operations. New CDCs (and expansions of existing CDCs) could occur so long as they met the representation requirements.

Any borrower in an area that does not have CDC coverage can be served by any CDC that has the capacity to service the loan. Generally, we should assume that anything less than 75 miles from the CDC's office is acceptable. In western states, the DD may make the call if there is a concern.

Discussion: This approach assumes that CDCs serving rural areas should be provided some assistance in ensuring a sufficient level of 504 activity to sustain their operations but does not penalize a potential borrower if the CDC cannot effectively handle the loan request. From an administrative standpoint, the "adequately served" decision is much easier, because it is based on population and population density statistics that can be made readily available to the public by putting U.S. Census data on SBA's Web site.

504 Loan and Debenture Structure

31. Presently only 10 and 20-year fixed-rate debentures are offered. Would 504 Program economic development objectives be better served if SBA made changes to the terms of debentures offered?

32. What would the costs and benefits to borrowers, CDCs, private sector lenders, and any other party be if SBA provided a debenture product that amortizes monthly rather than semi-annually?

33. Are there benefits to allowing CDCs to jointly participate in a 504 Loan project?

34. Would a stand-alone debenture (no third-party lender requirement) for projects located in rural counties make 504 financing more attractive in these under-represented counties? If so, should there be a dollar limit on the project?

Performance Requirements

35. SBA has developed a system that enables SBA and the CDC to track a CDC's 504 Loan portfolio performance as measured against SBA-established benchmarks as well as the CDC's peer group. In order to insure the quality of the 504 Loan portfolio as well as the accessibility of the program that could

be severely jeopardized if defaults increase and/or recoveries decrease, resulting in an increase in future borrowers' fees to maintain the program at its zero subsidy, should SBA establish 504 Loan portfolio performance requirements by CDC as a regulation? If so, since CDCs with large portfolios have a proportionately greater effect on the overall portfolio performance, but CDCs' with small portfolios are disproportionately affected by the failure of 1 loan, should there be a minimum portfolio size under which the regulation takes affect? If so, what should the size be?

36. Should SBA require CDCs to have a financial stake in the performance of all of their 504 Loans, not just in the performance of any loan processed under PCLP authority? If so, what should be the requirement?

Operational/Logistical Issues

37. What regulatory impediments are there to processing or closing 504 Loans?

38. If a 7(a) lender closes and disburses a loan that SBA subsequently determines to be ineligible, SBA can deny liability under its regulations. If a CDC closes and disburses a 504 Loan that SBA subsequently determines to be ineligible, what financial or other penalty should be imposed on the CDC?

Definition of Economic Development

39. Current regulations require a CDC to provide evidence to SBA that it has created at least one job per \$35,000 of 504 debentures that it has issued. At the two-year anniversary of the small business's receipt of the loan proceeds, the CDC is required to document how many jobs were actually created. Should SBA require CDCs to provide evidence of other economic development in their Areas of Operations in addition to creating jobs? If so, what other evidence of economic development should be required, and what quantitative measures should be used?

40. Should SBA develop a list of acceptable "economic development activities" in which SBA permits a CDC to invest its resources? If yes, what activities should be included? What activities should be excluded?

Participation in Other Programs

41. Should SBA permit a CDC to contribute to the financial support of a 7(a) lender? Is this economic development as intended by Congress when it created the development company loan program?

42. Should SBA permit a CDC to establish an affiliate relationship with a 7(a) lender through a management

contract? Are there any benefits or drawbacks for borrowers?

43. Should SBA permit a CDC to establish or acquire a 7(a) lender subsidiary? Is this economic development as intended by Congress? What are the benefits and drawbacks for borrowers?

44. SBA's regulations prohibit a financial institution, among others, from controlling a CDC. (§ 120.824) Should SBA permit a 7(a) lender to establish a CDC affiliate or subsidiary controlled by the 7(a) lender?

45. Should SBA permit a CDC to financially contribute to an SBIC? If so, under what limitations?

46. Should SBA permit a CDC to establish an affiliate relationship with an SBIC through a management contract?

47. Should SBA permit a CDC to establish an SBIC subsidiary? If so, under what limitations?

48. Should SBA permit a separate corporation to have control through common management of the corporation, a CDC, and other corporations such as a 7(a) lender, an SBIC and so on? If so, under what limitations?

Comments on any other aspect of the CDC Program are also welcome. SBA reminds commenters that all submissions by commenters are available to the public upon request.

Dated: December 2, 2002.

Hector V. Barreto,
Administrator.

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POSTAL SERVICE

39 CFR Part 111

Indemnity Claims; Notice of Changes

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to revise its standards concerning indemnity claims as set forth in the *Domestic Mail Manual* (DMM) S010, Indemnity Claims; and related provisions of S913, Insured Mail, and S920, Collect on Delivery (COD) Mail. Other than the proposed changes concerning time periods for filing claims and retention periods for undelivered Insured Mail, the changes clarify existing DMM provisions or codify, in the DMM, policies not currently set forth in that manual.

DATES: Comments must be received on or before 30 days from date of publication.

ADDRESSES: Written comments should be mailed or delivered to the manager, Revenue and Field Accounting, 475 L'Enfant Plaza SW, Room 8831, Washington, DC 20260-5242. Copies of all written comments will be available at the above address for inspection and photocopying between 9 a.m. and 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gilbert LeMarier, 202-268-3333.

SUPPLEMENTARY INFORMATION: The proposed changes fall into several categories. Each is addressed separately below.

I. Claim Filing Time Limits

The Postal Service is redesigning the claims system to ensure a more timely response to claims filed by our customers. The Customer Claims Response System (CCRS) will provide an interactive means, utilizing Web technology, to capture claim information from designated field units and to expedite claim adjudication. The product tracking system will be utilized to obtain delivery information.

In conjunction with the redesign of the claim system, time limits for filing a claim will be revised. The current policy that a customer must file a claim immediately when the contents of an article are damaged or missing will now have a clearly stated time limit of no later than 45 days from the mailing date. Also, for a lost article, a customer would be able to file sooner for certain special service products. Insured and bulk insured service customers would be able to file a claim 21 days from the mailing date versus the current 30-day requirement. Customers of COD mail, Express Mail COD, and registered COD special services would be able to file a claim 45 days from the mailing date versus the current 60-day requirement.

For Insured Mail, Registered Mail, and COD services, the Postal Service proposes that the maximum time limit for filing a claim be reduced to no later than 180 days from the mailing date. These proposed changes will enhance the efficient and timely processing of claims and reduce the retention period of undeliverable, accountable mail.

II. Retention Periods

The Postal Service also proposes to reduce the retention of undelivered Insured Mail items. Currently, undeliverable mail is forwarded to mail recovery centers (MRCs). Under current procedures, information about undeliverable accountable mail items (Insured Mail, Registered Mail, and COD mail) is logged into a national claims database and the accountable article is

held for 1 year from the date of receipt, the maximum time limit allowed for filing a claim from the mailing date. The Postal Service proposes that retention periods for accountable mail be shortened to 180 days from the date of receipt to match the new proposed maximum time limit allowed for filing a claim. This also would relieve capacity constraints on MRCs.

III. Documentation in Support of Claims

Under current mailing standards, only the sender may file a claim for the complete loss of Registered Mail, Insured Mail, COD, or Express Mail articles. The Postal Service proposes that either the sender or addressee, whoever is in possession of the mailing receipt, may now file a claim for the complete loss of a Registered Mail, numbered Insured Mail, COD, or Express Mail article. Only the sender would be allowed to file a claim for the complete loss of an unnumbered, insured article.

As evidence of value when a sales receipt or invoice is not available, the acceptance of a customer's statement with sufficient detail to determine whether the value claimed is accurate would be accepted only for items valued up to \$100. Other acceptable evidence of value would be a copy of a canceled check, money order receipt, credit card statement, or other documentation indicating the amount paid. For Internet transactions conducted through a Web-based payment network, acceptable evidence of value is a computer printout of an online transaction identifying the purchaser and seller, price paid, date of transaction, description of item purchased, and an indication the status of the transaction is *completed*.

As is the case with current policy, customer statements, receipts, or other evidence of value supplied by the customer will not necessarily be determinative of the value of the lost or damaged article, particularly if other information indicates the actual value at the time of mailing is different.

IV. Damage

To file a claim, the addressee must present the article, packaging, and mailing container to the Postal Service for inspection. If the sender, in conjunction with the CCRS, files the claim and the damaged article is in the custody of the addressee, the sender's Post Office or designated site will enter the claim data into the CCRS. The CCRS will generate a letter to the addressee instructing that the article, packaging, and container be presented to the Postal Service for inspection.

V. Additional Grounds for Denial of Claims

The Postal Service proposes that indemnity will not be paid for collect on delivery (COD), Insured Mail, Registered Mail, or for Express Mail service in the following situations:

- Mailer refusing to accept delivery of the mailpiece on return.
- Mail not bearing the complete names and addresses of the sender and addressee, or both the recipient's address and return address, and therefore is undeliverable.
- Event tickets received after the event.
- Software installed onto computers that have been lost or damaged.
- A personal check remitted to the mailer for a COD article and not honored by the financial institution upon which it is drawn.
- Damaged articles not claimed within the prescribed time limits set forth in *Postal Operations Manual* (POM) 147.3.
- Personal time used to make handmade, hobby, or craft items.

VI. Time Limit To Appeal to the Consumer Advocate

The Postal Service proposes to clarify the time limit in which a customer may forward an appeal to the Consumer Advocate, Headquarters. If the manager of Claims Appeals at the St. Louis Accounting Service Center (ASC) sustains a denial of a claim, any further appeal must be filed with the Consumer Advocate, within 60 days from the date of that decision.

VII. Valid Mailing Receipt

The Postal Service proposes to clarify that the appropriate mailing receipt must be postmarked in order to be acceptable evidence of insurance.

VIII. COD Changes

The Postal Service proposes to clarify that the mailer of a collect on delivery (COD) article may not stipulate "CASH ONLY" and that the recipient has the option to pay the charges by cash or personal check.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following revisions of the *Domestic Mail Manual* (DMM), incorporated by reference in the *Code of Federal Regulations*. 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)

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S Special Services**S000 Miscellaneous Services****S010 Indemnity Claims**

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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 sender, for the complete loss of an unnumbered, insured article.

[Revise new item b to read as follows:]

b. Either the sender or addressee, who is in possession of the mailing receipt, for the complete loss of a registered, numbered insured, COD, or Express Mail article.

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2.2 When to File

[Revise 2.2 to read as follows:]

A customer must file a claim no later than 45 days from the mailing date 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 (days) | No later than (days) |
| Bulk Insured | 21 | 180 |
| COD | 45 | 180 |
| Express Mail | 7 | 90 |
| Express Mail COD | 45 | 90 |
| Insured | 21 | 180 |
| Registered | 15 | 180 |
| Registered COD | 45 | 180 |

Exceptions: Claims for loss of insured and COD articles (including insured articles sent to APO and FPO addresses) originating at or addressed to post offices outside the contiguous 48 states may be filed only:

a. After 45 days if article sent First-Class Mail, space available mail (SAM), or parcel airlift (PAL) services.

b. After 45 days if article sent COD.

c. After 75 days if article sent by surface.

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2.5 Evidence of Insurance

For a claim involving registered, insured, 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 postmarked mailing receipt issued at the time of mailing (reproduced copies are not acceptable).

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[Revise item c to read as follows:]

c. The original sales receipt from an automated retail terminal listing the mailing receipt number and insurance amount, only if the original mailing receipt is not available (reproduced copies are not acceptable).

2.6 Evidence of Value

The customer 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:

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[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 new or used (only if a sales receipt or invoice is not available). If the article is handmade, the statement must include the price of the materials. The statement must describe the article in sufficient detail to determine whether the value claimed is accurate.

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[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.

[Add new item h to read as follows:]

h. For Internet transactions conducted through a Web-based payment network, 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.

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 container and packaging to the Postal Service when a claim is filed. Failure to do so results in the 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 article with the packaging and mailing container to the Postal Service for inspection. If the sender files the claim, the St. Louis ASC will notify the addressee by letter to present the article, packaging, and container to the Postal Service for inspection. Failure to do so results in the denial of the claim.

2.9 Proof of Loss

[Revise introductory text and item a to read as follows:]

To file a claim, the sender must provide proof of loss for unnumbered, insured mail. Proof of loss is not required for registered mail, numbered insured, COD, or Express Mail claims. Any one of these documents is acceptable:

a. A letter or statement from the addressee, dated at least 21 days after the date that the unnumbered insured article was mailed, reporting that the addressee did not receive the article. The statement or a copy of it must be attached to the claim.

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[Delete item c.]

2.10 Duplicate Claim

[Revise 2.10 to read as follows.]

A customer must file any duplicate claim for any mail type or service within the following time limits:

No sooner than 30 days and no later than 60 days from the date the original claim was filed.

[Delete the table.]

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2.14 Nonpayable Claims

[Revise introductory text to read as follows:]

Indemnity is not paid for collect on delivery (COD), insured mail, registered mail, or Express Mail services in these situations unless otherwise stated:

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[Revise item r to read as follows:]

r. Negotiable items (defined as instruments that can be converted to cash without resort to forgery), currency, or bullion except as provided in S911.2.0 for registered mail items or S010.2.12.c for Express Mail items.

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

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

ad. Mail not bearing the complete names and addresses of the sender and addressee, or not deliverable to either the addressee or sender.

ae. Event tickets (e.g., nonrefundable tickets for concert, theater, sport, or similar events) received after the event and, for insurance purposes, insured for loss, not for delay or receipt after the event for which they were purchased.

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

ag. Personal check remitted to the mailer for a COD article and not honored or otherwise payable by the financial institution upon which it is drawn. If the personal check is lost in transit, it is the mailer's responsibility to obtain a replacement check from the addressee. Indemnity to the mailer is limited to stop payment charges incurred by the addressee for the issuance of a replacement check, if the mailer establishes that the addressee incurred the charge and was reimbursed by the mailer for this amount.

ah. Damaged articles not claimed within the prescribed time limits set forth in *Postal Operations Manual* 147.3.

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

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3.0 PAYMENT

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3.3 Dual Claim

[Revise 3.3 to read as follows:]

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

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4.0 ADJUDICATION

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4.2 Appeal

[Revise 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 article, the customer must send the appeal directly to Claims Appeals (see G043 for address). For an unnumbered, insured 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 Appeal 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, then the customer may submit an additional appeal within 60 days for final review and decision to the Consumer Advocate, Postal Service Headquarters, who may waive standards in S010 in favor of the customer.

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S900 Special Postal Services

S910 Security and Accountability

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S913 Insured Mail

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2.0 MAILING

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[Revise 2.7 to read as follows:]

2.7 Receipt

For each insured article mailed, the mailer receives the appropriate postmarked receipt:

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

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

c. Form 3877 when multiple accountable mail articles are mailed at one time.

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S920 Convenience

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S921 Collect on Delivery (COD) Mail

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3.0 MAILING

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3.4 Indelible Ink, Mailer Errors

[Revise 3.4 to read as follows:]

The particulars required on the form must be filled in by hand with ink, typewritten, or computer printed. The Postal Service is not responsible for errors that a mailer makes in stating charges to be collected. The mailer can not stipulate "CASH ONLY". The recipient has the option to pay the charges by cash or personal check.

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An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,
Chief Counsel, Legislative.

[FR Doc. 02-30935 Filed 12-5-02; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 021113274-2274-01; I.D. 031501A]

RIN 0648-AO79

Atlantic Highly Migratory Species; Exempted Fishing Activities

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule in accordance with framework procedures for adjusting the management measures of the Final Fishery Management Plan for Atlantic Tunas, Swordfish and Sharks (HMS FMP), and Amendment 1 to the Atlantic Billfish Fishery Management Plan (Billfish FMP). This proposed rule would modify existing regulations for Atlantic highly migratory species (HMS) exempted fishing activities. The intent of the changes is to improve monitoring of exempted fishing activities for Atlantic HMS. NMFS will hold a public hearing to receive comments from fishing participants and other members of the public regarding the proposed exempted fishing specifications.

DATES: Comments must be received no later than 5 p.m., eastern standard time, on January 6, 2003.

The public hearing date is December 16, 2002, 7 p.m.—9 p.m.

ADDRESSES: Written comments on the proposed rule should be submitted to Christopher Rogers, Chief, Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments also may be sent via facsimile (fax) to 301-713-1917. Comments regarding the collection-of-information requirement contained in this proposed rule should be sent to the Highly Migratory Species Management Division (F/SF1), 1315 East-West Highway, Silver Spring, MD 20910, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer). Comments will not be accepted if submitted via e-mail or the internet.

The public hearing location is: Sea World Adventure Park, Ports of Call