

POSTAL SERVICE

39 CFR Part 111

Express Mail Refunds for Shipments of Live Animals

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising its standards for postage refunds for Express Mail® shipments of live animals in an effort to maintain the economic viability of shipping animals via Express Mail service.

EFFECTIVE DATE: September 8, 2009.

FOR FURTHER INFORMATION CONTACT: Joel Rosen, 202-268-4329 or Monica Grein, 202-268-8411.

SUPPLEMENTARY INFORMATION:

On April 14, 2009, the Postal Service published a proposed rule in the *Federal Register* (74 FR 17128-17129) inviting comments on a revision to change the postage refund standards for Express Mail shipments of live animals delivered or attempted to be delivered within 3 days of the date of mailing. After reviewing the comments, and upon further consideration of the proposed revisions, the Postal Service has decided to adopt the proposed regulations with minor revisions.

As noted in the Supplementary Information section of the proposed rule, the Postal Service is revising the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) to change the postage refund standards for Express Mail shipments of live animals delivered or attempted to be delivered within 3 days of the date of mailing. In some instances, the Postal Service must reroute Express Mail shipments of live animals to alternative flights or routes in order to protect the well-being of live animals. This is particularly necessary if other shipments on the same flight contain dry ice or solid carbon dioxide, which will evaporate en route and may displace oxygen. If live animals were shipped in the same cargo hold, the carbon dioxide could cause asphyxiation. The use of alternative flights and rerouting to protect the well-being of the live animals can delay shipments. Therefore, even though the live animals arrive as promptly as possible and alive, these shipments may not meet the scheduled delivery date. In those instances, some mailers then apply for full postage refunds.

Currently, postage refunds for Express Mail shipments of live animals are granted based on the next-day or second-day delivery date scheduled at the time of mailing. This current postage refund policy does not account for the flight

changes that may occur to protect the well-being of the animals. Therefore, under this final rule, postage refunds will not be available for Express Mail shipments of live animals delivered or attempted to be delivered within 3 days from the date of mailing. Postage refund requests for Express Mail shipments of live animals delivered after 3 days from the date of mailing may be granted.

Evaluation of Comments Received:

The Postal Service received three sets of comments. One commenter suggested we stop shipping animals altogether. The Postal Service has determined that this suggestion is outside the scope of this final rule.

One commenter suggested we add the proposed language for 601.9.3.4 to all the subsections under 601.9.3. The Postal Service added the proposed language only to the adult fowl section because this is the only type of animal for which Express Mail shipment is required. To be consistent, the Postal Service has decided to remove the proposed language from the adult fowl section and address the refund policy in the Postage Refund section only.

The commenter also suggested that DMM section 601.9.3.2 is inconsistent with the proposed rules in that the proposal allows for an extended arrival time. The Postal Service believes that this suggestion does not recognize the limited purpose of this final rule. While the new rule extends the arrival time of Express Mail shipments of live animals before refunds may be granted, the acceptance time conditions as indicated in 601.9.3 remain unchanged. At the time of acceptance, the Postal Service cannot predict whether the shipment will be delayed due to procedures taken to preserve the life of the contents. Therefore, the dispatch, transportation, and delivery processes must continue to be governed by the estimated service standard provided at the time of mailing.

Two commenters expressed concern regarding purposeful delays of live animal shipments. The Postal Service is not changing the way we handle live animals and is not making any operational changes. Our first priority is to keep live animals alive, and we will continue to provide the most expeditious handling that meets that priority.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual, which is incorporated by reference in the *Code of Federal Regulations*. See 39 CFR 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR Part 111 is amended as follows:

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, 3622, 3626, 3632, 3633, and 5001.

2. Revise the following sections of *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) as follows:

100 Retail Mail Letters, Cards, Flats, and Parcels

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110 Retail Mail Express Mail

* * * * *
114 Postage Payment Methods

* * * * *
3.0 Postage Refunds

3.1 Postage Not Refunded

[Revise the introductory paragraph of 3.1 to read as follows:]

Postage refunds may not be available if delivery was attempted within the times required for the specific service, or for any of the following reasons:

[Revise the first sentence of item a, and add a new item c as follows:]

a. If the item was properly detained for law enforcement purpose; strike or work stoppage; delayed because of an incorrect ZIP Code or address; forwarding or return service was provided after the item was made available for claim; delay or cancellation of flights. * * *

* * * * *

c. The shipment contained live animals and was delivered or delivery was attempted within three days of the date of mailing as shown in the “Date In” box on Label 11.

* * * * *
400 Commercial Mail Parcels

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410 Commercial Parcels Express Mail

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414 Postage Payment and Documentation

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3.0 Postage Refunds

[Revise the introductory paragraph of 3.0 to read as follows:]

Postage refunds may not be available if delivery was attempted within the times required for the specific service, or for any of the following reasons:

[Revise the first sentence of item a and add a new item c as follows:]

a. If the item was properly detained for law enforcement purpose; strike or work stoppage; delayed because of an incorrect ZIP Code or address; forwarding or return service was provided after the item was made available for claim; delay or cancellation of flights. * * *

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c. The shipment contained live animals and was delivered or delivery was attempted within three days of the date of mailing as shown in the "Date In" box on Label 11.

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600 Basic Standards for All Mailing Services

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604 Postage Payment Methods

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9.0 Refunds and Exchanges

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9.2 Postage and Fee Refunds

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9.2.4 Full Refund

A full refund (100%) may be made when:

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[Revise item l to read as follows:]

l. Express Mail is not delivered according to the applicable service standard, except as provided in 114.3.1 and 414.3.0. * * *

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Stanley F. Mires,
Chief Counsel, Legislative.
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