

NEW PENN LOSS AND DAMAGE CLAIMS DEPARTMENT

New Penn is proud to maintain a claim ratio that shows our commitment to providing quality service to our customers. Our ultimate goal is to meet our customers' expectations of "shipments delivered on-time and ERROR-FREE". However, we recognize the human element of freight handling and, therefore, make the claim filing process as easy as possible.

Please see below for FAQ's surrounding loss and damage (cargo) claims:

WHAT IS A CLAIM?

A written demand for payment, asserting carrier liability for alleged loss or damage containing facts sufficient to identify the shipment involved and includes supporting documentation.

WHO SHOULD FILE A CLAIM?

The claim should be filed by the owner of the goods. If the shipment moved at a released rate, the consignee should contact the shipper before a claim is filed.

HOW DO I FILE A CLAIM?

Claim forms can be obtained from the carrier upon request or they can be obtained from the New Penn web site in the Forms Library.

The completed claim form, along with the proper supporting documentation, can be submitted either of the following ways:

- 1) Mail to New Penn Cargo Claims Dept
625 S 5th Ave
Lebanon, PA 17042
- OR
- 2) E-mail to claims@newpenn.com
- OR
- 3) Fax to Cargo Claims Dept at 717-273-8183

HOW LONG DO I HAVE TO FILE A CLAIM?

A damage claim must be filed in writing within 9 months from the date of shipment delivery. In the event of shortage or non-delivery, within 9 months from the date of the bill of lading.

IF MORE THAN ONE CARRIER IS INVOLVED IN MY SHIPMENT, WHO DO I FILE A CLAIM WITH?

A claim may be filed with either the origin or delivering carrier.

DO I HAVE A VALID CLAIM?

If you have suffered a loss due to the alleged negligence or fault of a carrier, you have the right to file a claim. If the carrier, after investigation, determines it is responsible, you will be paid the actual loss with respect to the property or applicable maximum liability or released value.

HOW MUCH DO I FILE MY CLAIM FOR?

Claims should be filed at the actual extent of loss to the owner of the goods.

WHAT IS MY DUTY TO MITIGATE?

The bill of lading contract requires that the owner of the goods (claimant) take all necessary steps to mitigate the claim thereby minimizing the carrier's exposure. For example, in the case of damage claims, the claimant should inspect the damaged merchandise to determine if any of it is useable or if it can be repaired. The claim should then be filed for only the amount of product that is damaged or for repair costs.

WHAT IS MAXIMUM LIABILITY AND RELEASED VALUE?

Each carrier has a tariff provision for the carrier's maximum liability if in fact the carrier is responsible for a loss or damage. New Penn's maximum liability is based on a tiered liability according to the rated class of the freight (please refer to New Penn's Rules tariff for details). There are some commodities or special rates that fall under released values either in the National Motor Freight Classification or in the carrier's own tariff. If such is the case, the released value would apply rather than the normal carrier maximum liability.

WHAT DO I DO ABOUT THE FREIGHT BILL?

As the carrier is required to collect charges published in the effective tariff, the payment of freight charges may not be postponed due to alleged loss or damage. These charges should be paid in full and the portion applicable to the lost or damaged item(s) should be included in the freight claim. Why?

- Claims and payment of freight charges are two entirely different transactions.
- Withholding payment of freight bills due to pending claims is not allowed.
- Without payment of the freight charges, payment for transportation has not been made. A valid claim cannot be paid until the freight charges are paid.

Of course, there are times when the carrier will agree to cancel freight charges or will allow a return or replacement shipment to move on a no charge basis during the claim process. The carrier should be contacted regarding this on a case by case basis.

WHAT ABOUT CONCEALED DAMAGE?

When damage to merchandise is not found until after the delivery receipt is signed and the packaging is removed or opened, it is termed concealed damage. When this occurs, the carrier must be contacted immediately, either at the terminal or corporate office, requesting an inspection. According to the NMFC ruling, customers must report concealed damages no later than 5 business days after the day of delivery. Inspection of concealed damage after this time frame does not give an accurate account of the condition of the freight before it has been in the consignee's possession for a lengthy period of time or before it has perhaps incurred subsequent handling. Reporting of concealed damage within the allowable time frame does not guarantee that the carrier will pay any or part of a concealed damage claim.

WHAT ARE BURDENS OF PROOF?

Misunderstanding and confusion about the appropriate burdens of proof involved in cargo claims can happen. A basic understanding of the first simple burdens of proof relevant to cargo claims will benefit the claimant toward furthering prompt resolution of the matter.

The law requires that the claimant establish three things:

- Good condition at origin
- Damage or loss at destination
- The amount of damages

Once the claimant has established the above, the burden shifts to the carrier to establish:

- That damage or loss occurred solely as the result of one of the five common law and bill of lading exceptions as regards liability: 1) Act of God, 2) War, 3) Act or default of the shipper, 4) Act of public authority, 5) Inherent vice.
- That the carrier is free from negligence in handling the freight involved.

WHAT ABOUT INSPECTION?

Regardless if noted (visible) or concealed damage, it is imperative that you contact the carrier immediately to request a freight inspection. While awaiting inspection by the carrier, the consignee must hold the shipping container and its contents (including all internal packaging and product) in the same condition they were in when the damage was discovered, insofar as it is possible to do so. The carrier will send a representative to perform the inspection, or at its discretion will waive the inspection.

It is important to note that the inspection report is not a claim. The claimant must proceed with a claim in writing within the prescribed time frame. The claim will be investigated and concluded.

WHAT DO I DO ABOUT SALVAGE?

When visible or open damage to a shipment has been established by notation at time of delivery or concealed damage established by inspection report, the customer (either the consignee or in the case of a return the shipper) must retain possession of the merchandise as salvage.

If the carrier is liable, the carrier will take possession of the damaged merchandise as soon as possible, or at least within 30 days from the date the shipment was noted damaged on the carrier's delivery receipt or from the date of the inspection report, if damage was concealed.

If the carrier does not take possession of the damaged merchandise within the time prescribed above, the customer must contact the carrier and request removal of the goods from his/her premises within 15 days of such communication.

The above applies only when the carrier and customer agree that the carrier will handle disposition of the salvage, and does not in any manner affect the legal duty of the customer. When there is doubt of carrier liability, the carrier will so advise the customer. The customer then should hold the merchandise until liability of the carrier is determined, or may dispose of it so as to mitigate the damage, and should file claim for such damage. The carrier will remove the damaged goods within the 15 day period or will advise the customer that carrier liability is in doubt and the damaged merchandise is to be retained until the carrier has completed investigation of the claim.

WHAT IS A CLAIM TRANSMITTAL?

When a shipment moves by two or more carriers, the claim may have to be finalized among or between carriers. All carriers involved are to be afforded ample time to properly investigate a claim.

HOW LONG WILL THE CLAIM PROCESS TAKE?

New Penn makes an honest attempt to settle most claims within 30 days of receipt; however, circumstances surrounding the claim investigation may require more time.

All claims must be settled within 120 days, unless the carrier formally requests more time. The odds for a quick settlement are good if you: 1) File the claim as soon as you discover the loss or damage and determine that you are the party entitled to file, 2) Support the claim with the required documentation, 3) Take all steps you can to minimize the loss.