

## § 5007. Free transportation of postal employees

Each person or carrier engaged in the transportation of mail shall carry on any vessel, train, motor vehicle, or aircraft he operates, upon exhibiting their credentials and without extra charge therefor, persons on duty in charge of the mails or when traveling to and from such duty.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 768.)

## CHAPTER 52—TRANSPORTATION OF MAIL BY SURFACE CARRIER

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## CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 49 section 10721.

## § 5201. Definitions

For purposes of this chapter—

(1) "Commission" means the Interstate Commerce Commission;

(2) "carrier" and "regulated surface carrier" mean a railroad, a freight forwarder, a motor common carrier, or express carrier;

(3) "railroad" means a railway common carrier, including an electric urban and interurban railway common carrier;

(4) "freight forwarder" means any regulated freight forwarder which holds itself out to the general public as a common carrier to transport or provide transportation of property as authorized by a permit issued by the Commission;

(5) "motor common carrier" means a motor common carrier, except a passenger-carrying motor vehicle of such a carrier, within the meaning of section 10102(14) of title 49, that holds a certificate of public convenience and necessity issued by the Commission;

(6) "express carrier" means any express carrier engaged in transportation as a common carrier for hire under section 10102(8) of title 49;

(7) "person" includes any person other than a carrier holding a certificate of public convenience and necessity issued by the Commission; and

(8) "mail" includes equipment and supplies of the Postal Service.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 768; Pub. L. 95-473, § 2(a)(4)(A)-(C), Oct. 17, 1978, 92 Stat. 1465; Pub. L. 96-454, § 3(b)(2), Oct. 15, 1980, 94 Stat. 2012; Pub. L. 97-261, § 6(d)(4), Sept. 20, 1982, 96 Stat. 1107; Pub. L. 99-521, § 4(3), Oct. 22, 1986, 100 Stat. 2993.)

## AMENDMENTS

1986—Par. (5). Pub. L. 99-521 substituted reference to section 10102(14) of title 49 for reference to section 10102(13) of title 49.

1982—Par. (5). Pub. L. 97-261, § 6(d)(4)(A), substituted "10102(13)" for "10102(12)".

Par. (6). Pub. L. 97-261, § 6(d)(4)(B), substituted "10102(8) of title 49" for "10102(7)".

1980—Par. (5). Pub. L. 96-454 substituted "10102(12)" for "10102(11)".

1978—Par. (2). Pub. L. 95-473, § 2(a)(4)(A), substituted "motor common carrier, or express carrier" for "motor carrier, or an express company".

Par. (5). Pub. L. 95-473, § 2(a)(4)(B), substituted "'motor common carrier' means a motor common carrier, except a passenger-carrying motor vehicle of such a carrier, within the meaning of section 10102(11) of title 49, that holds a certificate of public convenience and necessity issued by the Commission" for "'motor carrier' means any common carrier by motor vehicle, except a passenger-carrying motor vehicle, within the meaning of section 303(a)(14) of title 49, which holds a certificate of public convenience and necessity issued by the Commission".

Par. (6). Pub. L. 95-473, § 2(a)(4)(C), substituted "carrier" for "company" and "section 10102(7)" for "section 1(3) of title 49".

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-521 effective 60 days after Oct. 22, 1986, see section 15 of Pub. L. 99-521, set out as a note under section 10102 of Title 49, Transportation.

## EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-261 effective the 60th day after Sept. 20, 1982, see section 31(a) of Pub. L. 97-261, set out as a note under section 10101 of Title 49, Transportation.

## EFFECTIVE DATE

Chapter effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5005 of this title.

## § 5202. Applicability

This chapter applies to mail transportation performed by any person or carrier or carrier combination regardless of the mode of transportation actually used to provide the service.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 768.)

## § 5203. Authorization of service by carrier

(a) The Postal Service may establish mail routes and authorize mail transportation service thereon.

(b) A carrier shall transport mail offered for transportation by the Postal Service in the manner, under the conditions, and with the service prescribed by the Postal Service. A carrier is entitled to receive fair and reasonable compensation for the transportation and service connected therewith.

(c) The Postal Service shall determine the trains or motor vehicles upon which mail shall be transported, except that no carrier shall be compelled to transport mail on any train or ve-

hicle which is operated exclusively for the transportation of passengers and their baggage.

(d) A carrier shall transport with due speed such mail as the Postal Service directs under this section.

(e) No carrier shall be required to serve territory it is not otherwise authorized to serve, to provide service for the Postal Service at a rate which is less than compensatory cost, or to provide service at a detriment to the carrier or its other customers.

(f) Any order or determination of the Postal Service providing for the transportation of mail by a motor common carrier shall be filed with the Commission. If the Commission finds, within 90 days after the filing, that the order or determination will be detrimental to the motor common carrier or its other customers, or that such carrier does not operate equipment suitable for the transportation of mail, the order or determination shall be terminated.

(g) An order or determination of the Postal Service under this section shall be consistent with the orders of the Commission under sections 5207 and 5208 of this title.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 768; Pub. L. 95-473, § 2(a)(4)(D), Oct. 17, 1978, 92 Stat. 1465.)

#### AMENDMENTS

1978—Subsec. (f). Pub. L. 95-473 substituted "motor common carrier" for "motor carrier" in two places.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5206 of this title.

#### § 5204. Changes in service; placement of equipment

(a) The Postal Service may authorize, according to the need therefor, new or additional mail transportation service by carriers at the rate or compensation fixed under this chapter. It may reduce or discontinue service with pro rata reductions in compensation and indemnity for the loss of reasonable investment in equipment used exclusively for mail.

(b) A railroad shall place cars used for full or apartment post office service in position at such times before departure as the Postal Service directs.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 769.)

#### § 5205. Evidence of service

A carrier shall submit evidence of its performance of mail transportation service, signed by an authorized official, in such form and at such times as the Postal Service requires. Mail transportation service is considered that of the carrier performing it regardless of the ownership of the property used by the carrier.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 769.)

#### § 5206. Fines and deductions

(a) The Postal Service may fine any carrier an amount not to exceed \$500 for each day the carrier refuses to perform mail transportation services required by it at rates or compensation established under this chapter.

(b) The Postal Service shall fine a carrier an amount it deems reasonable for failure or refus-

al by that carrier to transport mail as required by the Postal Service under section 5203 of this title.

(c) The Board may make deductions from the compensation of a carrier for failure to perform mail transportation service as required under section 5203 of this title. If the failure to perform is due to the fault of the carrier, it may deduct a sum not exceeding twice the compensation applying to such service. Such deductions shall not be made prior to the expiration of 60 days following service upon the carrier by the Board of notice of intention to assess a fine or make a deduction and of the basis therefor.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 769.)

#### § 5207. Interstate Commerce Commission to fix rates

(a) The Commission shall determine and fix the fair and reasonable rates or compensation for the transportation of mail by carrier and the service connected therewith, and shall prescribe the method of computing such rates or compensation. The Commission shall publish its orders stating its determination under this section which shall remain in force until changed by it after notice and hearing.

(b) For the purpose of determining and fixing rates or compensation under this section, the Commission may make just and reasonable classifications of carriers and, where just and equitable, fix general rates applicable to carriers in the same classification.

(c) In determining and fixing fair and reasonable rates or compensation under this section, the Commission shall consider the relation between the Government and carriers as public service corporations, and the nature of public service as distinguished, if there is a distinction, from the ordinary transportation business of the carriers.

(d) Initial rates or compensation for mail transportation service by any carrier or carriers shall be those agreed to by the Postal Service and the carrier or carriers, and such rates or compensation shall continue in effect until such time as the Commission fixes the rates or compensation under subsection (a) of this section.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 770.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5203, 5208, 5212 of this title.

#### § 5208. Procedures

(a) At any time after 6 months from the entry of an order stating the Commission's determination under section 5207 of this title, the Postal Service or an interested carrier may apply for a reexamination and substantially similar proceedings as have theretofore been had shall be followed with respect to the rates of compensation for service covered by the application. At the conclusion of the hearing the Commission shall enter an order stating its determination.

(b) Except as authorized by sections 5207(d), 5209, 5210, and 5212 of this title, the Postal Service shall pay a carrier the rates or compen-

sation so determined and fixed for application at such stated times as named in the order.

(c) The Postal Service may file with the Commission a comprehensive plan stating—

(1) its requirements for the transportation of mail by carrier;

(2) the character and speed of the trains or motor vehicles which are to carry the various kinds of mail;

(3) the service, both terminal and en route, which carriers are to render;

(4) what it believes to be the fair and reasonable rates or compensation for the services required; and

(5) all other information which may be material to the inquiry, but such other information may be filed at any time in the discretion of the Commission.

(d) When a comprehensive plan is filed, the Commission shall give notice of not less than 30 days to each carrier required by the Postal Service to transport mail pursuant to such plan. A carrier may file its answer at the time fixed by the Commission, but not later than 30 days after the expiration date fixed by the Commission in the notice, and the Commission shall proceed with the hearing.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 770.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5203 of this title.

#### § 5209. Special rates

Upon petition by the Postal Service, the Commission shall determine and fix carload or truckload, or less than carload or truckload, rates for the transportation of mail not entitled to high priority in transportation. A carrier shall perform the service at the rates so determined when requested to do so and under the conditions prescribed by the Postal Service.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 770.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5208 of this title.

#### § 5210. Intermodal transportation

The Postal Service may permit a carrier to perform mail transportation by any form of transportation it deems appropriate at rates or compensation not exceeding those allowable for similar service by the designated form of transportation.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 771.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5208 of this title.

#### § 5211. Statistical studies

The Postal Service may arrange for weighing and measuring mail transported on carrier mail routes and make other computations for statistical and administrative purposes to carry out the purposes of this chapter.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 771.)

#### § 5212. Special contracts

The Postal Service may enter into special contracts with any carrier or person, without advertising, for bids and for periods not in excess of 4 years. It may contract to pay lower rates or compensation or, where in its judgment conditions warrant, higher rates or compensation than those determined or fixed by the Commission. The fact that the Commission has not prescribed rates or compensation for the carrier involved, under section 5207 of this title, shall not preclude execution of a contract under this section. Such contracts may be negotiated only after reasonable notice has been posted in advance in post offices on the post roads to be served, and other carriers or persons have been given an opportunity to offer to negotiate for the transportation of mail.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 771.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5208 of this title.

#### § 5213. Carrier operations; receipts; expenditures

The Postal Service shall request any carrier transporting the mails to furnish, under seal, such data relating to the operations, receipts, and expenditures of such carrier as may, in its judgment, be deemed necessary to enable it to ascertain the cost of mail transportation and the proper compensation to be paid for such service.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 771.)

#### § 5214. Agreements with passenger common carriers by motor vehicle

The Postal Service may enter into contracts under such terms and conditions as it shall prescribe and without advertising for bids for the transportation of mail, in passenger-carrying motor vehicles, by passenger common carriers, or by motor vehicles over the regular routes on which the carrier is permitted by law to transport passengers.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 771.)

#### § 5215. Star route certification

(a) Any person who was a contractor under a star route, mail messenger, or contract motor vehicle service contract on the effective date of this section (or successor in interest to any such person), shall, upon application to the Commission for the territory within which such contractor operated on or before the effective date of this section be issued a certificate of public convenience and necessity as a motor common carrier for the transportation of mail by the Commission without the Commission's requiring further proof that the public convenience and necessity will be served by such operation and without further proceedings.

(b) Applications of persons who were not contractors on the effective date of this section shall be decided in accordance with applicable Commission procedure.

(c) For purposes of this section, the term "person" has the same meaning given that term under section 1 of title 1.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 771; Pub. L. 95-473, § 2(a)(4)(E), Oct. 17, 1978 92 Stat. 1465.)

#### REFERENCES IN TEXT

The effective date of this section, referred to in subsecs. (a) and (b), is July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of this title.

#### AMENDMENTS

1978—Subsec. (a). Pub. L. 95-473 substituted "motor common carrier" for "motor carrier".

### CHAPTER 54—TRANSPORTATION OF MAIL BY AIR

Sec.	
5401.	Authorization.
5402.	Contracts for transportation of mail by air.
5403.	Fines.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 5005 of this title.

#### § 5401. Authorization

(a) The Postal Service is authorized to provide for the safe and expeditious transportation of mail by aircraft.

(b) Except as otherwise provided in section 5402 of this title, the Postal Service may make such rules, regulations, and orders consistent with sections 1301-1542 of title 49,<sup>1</sup> or any order, rule, or regulation made by the Secretary of Transportation thereunder, as may be necessary for such transportation.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 772; Pub. L. 98-443, § 9(g)(3), Oct. 4, 1984, 98 Stat. 1707.)

#### REFERENCES IN TEXT

Sections 1301-1542 of title 49, referred to in subsec. (b), are classified to sections 1301-1542 of Title 49, Appendix, Transportation.

#### AMENDMENTS

1984—Subsec. (b). Pub. L. 98-443 substituted "Secretary of Transportation" for "Civil Aeronautics Board".

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-443 effective Jan. 1, 1985, see section 9(v) of Pub. L. 98-443, set out as a note under section 5314 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE

Chapter effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors. See section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of this title.

#### § 5402. Contracts for transportation of mail by air

(a) The Postal Service may contract with any certificated air carrier, without advertising for bids, in such manner and under such terms and conditions as it deems appropriate, for the

transportation of mail by aircraft between any of the points in foreign air transportation between which the carrier is authorized by the Secretary of Transportation to engage in the transportation of mail. Such contracts shall be for the transportation of at least 750 pounds of mail per flight, and no more than 5 percent, based on weight, of the international mail transported under any such contract shall consist of letter mail. Any such contract shall be filed with the Secretary of Transportation not later than 90 days before its effective date. Unless the Secretary of Transportation shall determine otherwise (under criteria prescribed by section 1302 of title 49)<sup>1</sup> not later than 10 days prior to the effective date of the contract, such contract shall become effective.

(b) When the Postal Service deems that the transportation of mail by aircraft is required between points in foreign air transportation between which the Secretary of Transportation has not authorized an air carrier or combination of air carriers to engage in the transportation of mail, it may contract with any air carrier in such manner and under such terms and conditions as it may deem appropriate for the transportation of any class or classes of mail. The transportation of mail under contracts entered into under this subsection is not, except for sections 1371(k) and 1386(b) of title 49,<sup>1</sup> air transportation within the provisions of sections 1301-1542 of title 49.<sup>1</sup> The Postal Service shall cancel such contract, in whole or in respect to certain points as the certificate shall require, upon the issuance by the Secretary of Transportation of an authorization under sections 1371-1386 of title 49<sup>1</sup> to any air carrier to engage in the transportation of mail by aircraft between any of the points named in the contract, and the inauguration of scheduled service by such carrier.

(c) If the Postal Service determines that service by certificated air carriers or combination of air carriers between any pair or pairs of points in foreign air transportation is not adequate for its purposes, it may contract for a period of not more than 4 years, without advertising for bids, in such manner and under such terms and conditions as it may deem appropriate, with any air taxi operator or combination thereof for such air transportation service. Contracts made under this subsection may be renewed at the existing rate by mutual agreement between the holder and the Postal Service. The Postal Service, with the consent of the air taxi operator, may adjust the compensation under such contracts for increased or decreased costs occasioned by changed conditions occurring during the contract term. The Postal Service shall cancel such a contract when the Secretary of Transportation authorizes an additional certificated carrier or carriers to provide service between any pair or pairs of points covered by the contract, and such carrier or carriers inaugurate schedules adequate for its purposes.

(d) The Postal Service may contract with any air carrier for the transportation of mail by aircraft in interstate and overseas air transportation either through negotiations or competitive bidding.

<sup>1</sup> See References in Text note below.