

The Postal Service shall not require the names of persons owning less than 1 percent of the total amount of stocks, bonds, mortgages, or other securities.

(b) Each publication having such mail privileges shall furnish to the Postal Service information in such form and detail, and at such times, as the Postal Service requires to determine whether the publication continues to qualify for such privileges.

(c) The Postal Service shall make appropriate rules and regulations to carry out the purposes of this section, including provision for suspension or revocation of periodical publication mail privileges for failure to furnish the required information.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 765.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 611.

PART V—TRANSPORTATION OF MAIL

Table with 2 columns: Chap. and Sec. listing sections 50 through 56.

CHAPTER 50—GENERAL

Table with 2 columns: Sec. and description of sections 5001 through 5007.

§ 5001. Provisions for carrying mail

The Postal Service shall provide for the transportation of mail in accordance with the policies established under section 101(e) and (f) of this title and the provisions of this chapter.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 766.)

EFFECTIVE DATE

Chapter effective July 1, 1971, pursuant to Resolution No. 71-9 of the Board of Governors.

§ 5002. Transportation of mail of adjoining countries through the United States

The Postal Service, with the consent of the President, may make arrangements to allow the mail of countries adjoining the United States to be transported over the territory of the United

States from one point in that country to any other point therein, at the expense of the country to which the mail belongs, upon obtaining a like privilege for the transportation of United States mail through the country to which the privilege is granted.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 766.)

§ 5003. Establishment of post roads

The following are post roads:

- (1) the waters of the United States, during the time the mail is carried thereon;
(2) railroads or parts of railroads and air routes in operation;
(3) canals, during the time the mail is carried thereon;
(4) public roads, highways, and toll roads during the time the mail is carried thereon; and
(5) letter-carrier routes established for the collection and delivery of mail.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 766.)

§ 5004. Discontinuance of service on post roads

The Postal Service may discontinue service on a post road or part thereof when, in its opinion, the public interest so requires.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 767.)

§ 5005. Mail transportation

(a) The Postal Service may obtain mail transportation service—

- (1) from common carriers by rail and motor vehicle or persons as provided in chapter 52 of this title;
(2) from air carriers as provided in chapter 54 of this title;
(3) from water carriers as provided in chapter 56 of this title; and
(4) by contract from any person (as defined in section 5201(6) of this title) or carrier for surface and water transportation under such terms and conditions as it deems appropriate, subject to the provisions of this section.

(b)(1) Contracts for the transportation of mail procured under subsection (a)(4) of this section shall be for periods not in excess of 4 years (or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years) and shall be entered into only after advertising a sufficient time previously for proposals.

(2) A contract under subsection (a)(4) of this section may be renewed at the existing rate by mutual agreement between the contractor or subcontractor and the Postal Service.

(3) Any contract between the Postal Service and any carrier or person for the transportation of mail shall be available for inspection in the office of the Postal Service and either the Surface Transportation Board or the Secretary of Transportation if for the carriage of mail in foreign air transportation (as defined in section

40102(a) of title 49), as appropriate, and in post offices on the post roads involved as determined by the Postal Service, at least 15 days prior to the effective date of the contract.

(c) The Postal Service, in determining whether to obtain transportation of mail by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or by Government motor vehicle, shall use the mode of transportation which best serves the public interest, due consideration being given to the cost of the transportation service under each mode.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 767; Pub. L. 92-286, May 1, 1972, 86 Stat. 133; Pub. L. 98-443, §9(g)(2), Oct. 4, 1984, 98 Stat. 1707; Pub. L. 103-272, §5(k)(2), July 5, 1994, 108 Stat. 1375; Pub. L. 104-88, title III, §307(1), (2), Dec. 29, 1995, 109 Stat. 945, 946.)

#### AMENDMENTS

1995—Subsec. (a)(4). Pub. L. 104-88, §307(1), substituted “5201(6)” for “5201(7)”.

Subsec. (b)(3). Pub. L. 104-88, §307(2), substituted “Surface Transportation Board” for “Interstate Commerce Commission”.

1994—Subsec. (b)(3). Pub. L. 103-272 substituted “section 40102(a) of title 49” for “section 101 of the Federal Aviation Act of 1958”.

1984—Subsec. (b)(3). Pub. L. 98-443 substituted “Secretary of Transportation if for the carriage of mail in foreign air transportation (as defined in section 101 of the Federal Aviation Act of 1958)” for “Civil Aeronautics Board”.

1972—Subsec. (b)(2). Pub. L. 92-286 substituted “contractor or subcontractor” for “holder”.

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

#### 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.

### § 5006. Lien on compensation of contractor

(a) A person who—

(1) performs service for a contractor or subcontractor in the transportation of mail;

(2) files his contract for service with the Postal Service; and

(3) files satisfactory evidence of performance with the Postal Service;

shall have a lien on money due the contractor or subcontractor for the service.

(b) The Postal Service may pay the person establishing a lien under subsection (a) of this section the sum due him, when the contractor or subcontractor fails to pay the person the amount of his lien within 2 months after the expiration of the month in which the service was performed. It shall charge the amount so paid to the contract. The payments may not exceed the annual rate of pay of the contractor or subcontractor.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 767.)

### § 5007. Free transportation of postal employees

(a) 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.

(b)(1) In this subsection, “air carrier” and “aircraft” have the same meanings given those terms in section 40102(a) of title 49.

(2) An air carrier engaged in transporting mail shall carry without charge on any plane it operates those agents and officers of the Postal Service traveling on official business related to transporting mail by aircraft, as prescribed by regulations of the Secretary of Transportation, on exhibiting credentials.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 768; Pub. L. 103-272, §4(g)(1), July 5, 1994, 108 Stat. 1364.)

#### AMENDMENTS

1994—Pub. L. 103-272 designated existing provisions as subsec. (a) and added subsec. (b).

### CHAPTER 52—TRANSPORTATION OF MAIL BY SURFACE CARRIER

#### Sec.

5201.	Definitions.
5202.	Applicability.
5203.	Authorization of service by carrier.
5204.	Changes in service; placement of equipment.
5205.	Evidence of service.
5206.	Fines and deductions.
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5210.	Intermodal transportation.
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5212.	Special contracts.
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5214.	Agreements with passenger common carriers by motor vehicle.
5215.	Star route certification.

#### AMENDMENTS

1995—Pub. L. 104-88, title III, §307(15), Dec. 29, 1995, 109 Stat. 946, substituted “Surface Transportation Board” for “Interstate Commerce Commission” in item 5207.

### § 5201. Definitions

For purposes of this chapter—

(1) “Board” means the Surface Transportation Board;

(2) “carrier” and “regulated surface carrier” mean a railroad, a freight forwarder, or a motor 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 carrier to transport or provide transportation of property as authorized by a registration issued by the Board;

(5) “motor carrier” means a motor carrier, except a passenger-carrying motor vehicle of such a carrier, within the meaning of section 13102(12) of title 49, that holds a registration issued by the Board;

(6) “person” includes any person other than a carrier holding a certificate or registration issued by the Board; and

(7) “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; Pub. L. 104-88, title III, §307(3)-(9), (14), Dec. 29, 1995, 109 Stat. 946.)

## AMENDMENTS

1995—Par. (1). Pub. L. 104-88, §307(3), added par. (1) and struck out former par. (1) which read as follows: “‘Commission’ means the Interstate Commerce Commission;”.

Par. (2). Pub. L. 104-88, §307(4), substituted “or a motor carrier” for “a motor common carrier, or express carrier”.

Par. (4). Pub. L. 104-88, §307(5), (14), substituted “carrier” for “common carrier”, “registration” for “permit”, and “Board” for “Commission”.

Par. (5). Pub. L. 104-88, §307(6), (14), substituted “motor carrier” for “motor common carrier” in two places, “13102(12)” for “10102(14)”, “registration” for “certificate of public convenience and necessity”, and “Board” for “Commission”.

Par. (6). Pub. L. 104-88, §307(7)-(9), (14), redesignated par. (7) as (6), substituted “certificate or registration” for “certificate of public convenience and necessity” and “Board” for “Commission”, and struck out former par. (6) which read as follows: “‘express carrier’ means any express carrier engaged in transportation as a common carrier for hire under section 10102(8) of title 49;”.

Pars. (7), (8). Pub. L. 104-88, §307(8), redesignated pars. (7) and (8) as (6) and (7), respectively.

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 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

## EFFECTIVE DATE OF 1986 AMENDMENT

Section 15 of Pub. L. 99-521 provided that: “This Act [see Tables for classification] shall take effect sixty days after the date of the enactment of this Act [Oct. 22, 1986].”

## EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-261 effective on 60th day after Sept. 20, 1982, see section 31(a) of Pub. L. 97-261, set out as a note under section 77c of Title 15, Commerce and Trade.

## 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 vehicle 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 carrier shall be filed with the Board. If the Board finds, within 90 days after the filing, that the order or determination will be detrimental to the motor 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 Board 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; Pub. L. 104-88, title III, §307(10), (14), Dec. 29, 1995, 109 Stat. 946.)

## AMENDMENTS

1995—Subsec. (f). Pub. L. 104-88 substituted “motor carrier” for “motor common carrier” in two places and “Board” for “Commission” in two places.

Subsec. (g). Pub. L. 104-88, §307(14), substituted “Board” for “Commission”.

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

## EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

## 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 refusal 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. Surface Transportation Board to fix rates**

(a) The Board 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 Board 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 Board 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 Board 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 Board fixes the rates or compensation under subsection (a) of this section.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 770; Pub. L. 104-88, title III, §307(11), (14), Dec. 29, 1995, 109 Stat. 946.)

## AMENDMENTS

1995—Pub. L. 104-88 substituted “Surface Transportation Board” for “Interstate Commerce Commission” in section catchline and “Board” for “Commission” wherever appearing in text.

## EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

## 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 Board’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 services covered by the application. At the conclusion of the hearing the Board 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 compensation so determined and fixed for application at such stated times as named in the order.

(c) The Postal Service may file with the Board 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 Board.

(d) When a comprehensive plan is filed, the Board 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 Board, but not later than 30 days after the expi-

ration date fixed by the Board in the notice, and the Board shall proceed with the hearing.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 770; Pub. L. 104-88, title III, §307(12), (14), Dec. 29, 1995, 109 Stat. 946.)

#### AMENDMENTS

1995—Pub. L. 104-88 substituted “Board’s” for “Commission’s” in subsec. (a) and “Board” for “Commission” wherever appearing in subssecs. (a), (c), and (d).

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

#### 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 Board 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; Pub. L. 104-88, title III, §307(14), Dec. 29, 1995, 109 Stat. 946.)

#### AMENDMENTS

1995—Pub. L. 104-88 substituted “Board” for “Commission”.

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

#### 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 Board. The fact that the Board 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; Pub. L. 104-88, title III, §307(14), Dec. 29, 1995, 109 Stat. 946.)

#### AMENDMENTS

1995—Pub. L. 104-88 substituted “Board” for “Commission” in two places.

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

#### 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 Board 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 carrier for the transportation of mail by the Board without the Board’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 Board 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; Pub. L. 104-88, title III, §307(12)-(14), Dec. 29, 1995, 109 Stat. 946.)

#### 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

1995—Subsec. (a). Pub. L. 104-88 substituted “Board” for “Commission” in two places, “motor carrier” for “motor common carrier”, and “Board’s” for “Commission’s”.

Subsec. (b). Pub. L. 104-88, §307(14), substituted “Board” for “Commission”.

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

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

### 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 part A of subtitle VII of title 49, 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; Pub. L. 103-272, §5(k)(3), July 5, 1994, 108 Stat. 1375.)

#### AMENDMENTS

1994—Subsec. (b). Pub. L. 103-272 substituted “part A of subtitle VII” for “sections 1301-1542”.

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 40101(a) of title 49) 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 40109(a) and (c)-(h) and 42112 of title 49, air transportation within the provisions of part A of subtitle VII of title 49. 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 chapters 411 and 413 of title 49 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 determine rates and contract with any air carrier for the transportation of mail by aircraft in interstate air transportation either through negotiations or competitive bidding.

(e) For purposes of this section, the terms “air carrier”, “interstate air transportation”, and “foreign air transportation” have the meanings given such terms in section 40102(a) of title 49.

(f) The authority of the Secretary of Transportation and the Postal Service under subsections (a), (b), and (c) of this section shall also apply, and the authority of the Postal Service under subsection (d) shall not apply, to the transportation of mail by aircraft between any two points both of which are within the State of Alaska and between which the air carrier is authorized by the Secretary to engage in the transportation of mail.

(g)(1) The Postal Service, in selecting carriers of non-priority bypass mail to any point served by more than one carrier in the State of Alaska, shall, at a minimum, require that any such carrier shall—

(A) hold a certificate of public convenience and necessity issued under section 41102(a) of title 49;

(B) operate at least 3 scheduled flights each week to such point;

(C) exhibit an adherence to such scheduled flights to the best of the abilities of such carrier; and

(D) have provided scheduled service within the State of Alaska for at least 12 consecutive months with aircraft—

(i) up to 7,500 pounds payload capacity before being selected as a carrier of nonpriority bypass mail at an applicable intra-Alaska bush service mail rate; and

(ii) over 7,500 pounds payload capacity before being selected as a carrier of nonpriority bypass mail at the intra-Alaska mainline service mail rate.

(2) The Postal Service—

(A) may provide direct mainline non-priority bypass mail service to any bush point in the State of Alaska, without regard to paragraph (1)(B), if such service is equal to or better than interline service in cost and quality; and

(B) shall deduct the non-priority bypass mail poundage flown on direct mainline flights to bush points within the State of Alaska by any carrier, from such carrier's allocation of the total poundage of non-priority bypass mail transported to the nearest appropriate Postal Service hub point in any month.

(3)(A) The Postal Service shall determine the bypass mail bush points and hub points described under paragraph (2)(B) after consultation with the State of Alaska and the affected local communities and air carriers.

(B) Any changes in the determinations of the Postal Service under subparagraph (A) shall be made—

(i) after consultation with the State of Alaska and the affected local communities and air carriers; and

(ii) after giving 12 months public notice before any such change takes effect.

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

100-238, title I, §137, Jan. 8, 1988, 101 Stat. 1767; Pub. L. 103-272, §4(g)(2), July 5, 1994, 108 Stat. 1364; Pub. L. 103-429, §5, Oct. 31, 1994, 108 Stat. 4378; Pub. L. 104-52, title VI, §631(a), Nov. 19, 1995, 109 Stat. 505.)

#### AMENDMENTS

1995—Subsec. (f). Pub. L. 104-52, §631(a)(1), substituted “The” for “During the period beginning January 1, 1985, and ending January 1, 1999, the”.

Subsec. (g)(1)(D). Pub. L. 104-52, §631(a)(2), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “have provided scheduled service within the State of Alaska for at least 12 months before being selected as a carrier of non-priority bypass mail.”

1994—Subsec. (a). Pub. L. 103-272, §4(g)(2)(A), substituted “section 40101(a) of title 49” for “section 1302 of title 49”.

Subsec. (b). Pub. L. 103-272, §4(g)(2)(B), substituted “sections 40109(a) and (c)-(h) and 42112 of title 49” for “sections 1371(k) and 1386(b) of title 49”, “part A of subtitle VII of title 49” for “sections 1301-1542 of title 49”, and “chapters 411 and 413 of title 49” for “sections 1371-1386 of title 49”.

Subsec. (d). Pub. L. 103-272, §4(g)(2)(C), inserted “determine rates and” after “Service may” and struck out “and overseas” after “in interstate”.

Subsec. (e). Pub. L. 103-272, §4(g)(2)(D), struck out “overseas air transportation,” before “and ‘foreign’”, and substituted “section 40102(a) of title 49” for “section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)”.

Subsec. (g)(1)(A). Pub. L. 103-429 substituted “section 41102(a) of title 49” for “section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371)”.

1988—Subsec. (f). Pub. L. 100-238, §137(1), substituted “January 1, 1999” for “January 1, 1989”.

Subsec. (g). Pub. L. 100-238, §137(2), added subsec. (g).

1984—Subsec. (a). Pub. L. 98-443, §9(g)(4)(A)-(C), substituted “Secretary of Transportation” for “Civil Aeronautics Board” wherever appearing, substituted “between any of the points in foreign air transportation” for “between any of the points”, and struck out “10 percent of the domestic mail transported under any such contract or” before “5 percent”.

Subsec. (b). Pub. L. 98-443, §9(g)(4)(A), (D), substituted “Secretary of Transportation” for “Civil Aeronautics Board” wherever appearing and “required between points in foreign air transportation” for “required between points”.

Subsec. (c). Pub. L. 98-443, §9(g)(4)(A), (E), substituted “Secretary of Transportation” for “Civil Aeronautics Board” and “pairs of points in foreign air transportation is not adequate” for “pairs of points is not adequate”.

Subsecs. (d) to (f). Pub. L. 98-443, §9(g)(4)(F), added subsecs. (d) to (f).

#### EFFECTIVE DATE OF 1995 AMENDMENT

Section 631(b) of Pub. L. 104-52 provided that:

“(1) Subject to paragraph (2), the amendment made by subsection (a) [amending this section] shall be effective on and after August 1, 1995.

“(2) Subparagraph (D) of section 5402(g)(1) title 39, United States Code (as in effect before the amendment made under subsection (a)), shall apply to a carrier, if such carrier—

“(A) has an application pending before the Department of Transportation for approval under section 41102 or 41110(e) of title 39, [probably should be “49,”] United States Code, before August 1, 1995; and

“(B) would meet the requirements of such subparagraph if such application were approved and such certificate were purchased.”

#### 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5401 of this title; title 49 sections 41901, 41902.

**§ 5403. Fines**

The Postal Service may impose or remit fines on carriers transporting mail by air on routes extending beyond the borders of the United States for—

- (1) unreasonable or unnecessary delay to mail; and
- (2) other delinquencies in the transportation of the mail.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 773.)

**CHAPTER 56—TRANSPORTATION OF MAIL BY VESSEL**

Sec.	
5601.	Sea post service.
5602.	Termination of contracts for foreign transportation.
5603.	Transportation of mail by vessel as freight or express.
5604.	Fines on ocean carriers.
5605.	Contracts for transportation of mail by vessel.

CHAPTER REFERRED TO IN OTHER SECTIONS

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

**§ 5601. Sea post service**

The Postal Service may maintain sea post service on ocean vessels conveying mail to and from the United States.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 773.)

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.

**§ 5602. Termination of contracts for foreign transportation**

Contracts for the transportation of mail by vessel between the United States and a foreign port shall be made subject to cancellation by the Postal Service or the Congress.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 773.)

**§ 5603. Transportation of mail by vessel as freight or express**

The Postal Service may require that mail be transported by freight or express when—

- (1) there is no competition on a water route and the rate or compensation asked is excessive; or
- (2) no proposal is received.

A common carrier by water that fails or refuses to transport the mail when required to do so under this section shall be fined not more than \$500 for each day of refusal.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 773.)

**§ 5604. Fines on ocean carriers**

The Postal Service may impose or remit fines on carriers transporting mail by vessel on routes extending beyond the borders of the United States for—

- (1) unreasonable or unnecessary delay to the mails; and
- (2) other delinquencies in the transportation of mail.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 773.)

**§ 5605. Contracts for transportation of mail by vessel**

The Postal Service may contract for the transportation of mail by vessel without advertising for bids for periods of not in excess of 4 years.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 773.)