

ing sentence, the term “product covered by the postal monopoly” means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

(3) ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—

(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

(B) the views of those who use the product involved on the appropriateness of the proposed action; and

(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

(c) TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission under section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

(2) PUBLICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.

(e) PROHIBITION.—Except as provided in section 3641, no product that involves the physical delivery of letters, printed matter, or packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

(1) under this subchapter; or

(2) by or under any other provision of law.

(Added Pub. L. 103–123, title VII, §704(a)(2), Oct. 28, 1993, 107 Stat. 1268; amended Pub. L. 109–435, title II, §203, Dec. 20, 2006, 120 Stat. 3209.)

AMENDMENTS

2006—Pub. L. 109–435 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (d),

related to special authority relating to reduced-rate categories of mail.

EFFECTIVE DATE

Section applicable with respect to rates for mail sent after Sept. 30, 1993, see section 704(c)(1) of Pub. L. 103–123, set out as an Effective Date of 1993 Amendment note under section 3626 of this title.

SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

PRIOR PROVISIONS

A prior subchapter IV was redesignated subchapter V of this chapter.

§ 3651. Annual reports by the Commission

(a) IN GENERAL.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622 and 3633, respectively.

(b) ADDITIONAL INFORMATION.—

(1) IN GENERAL.—In addition to the information required under subsection (a), each report under this section shall also include, with respect to the period covered by such report, an estimate of the costs incurred by the Postal Service in providing—

(A) postal services to areas of the Nation where, in the judgment of the Postal Regulatory Commission, the Postal Service either would not provide services at all or would not provide such services in accordance with the requirements of this title if the Postal Service were not required to provide prompt, reliable, and efficient services to patrons in all areas and all communities, including as required under the first sentence of section 101(b);

(B) free or reduced rates for postal services as required by this title; and

(C) other public services or activities which, in the judgment of the Postal Regulatory Commission, would not otherwise have been provided by the Postal Service but for the requirements of law.

(2) BASIS FOR ESTIMATES.—The Commission shall detail the basis for its estimates and the statutory requirements giving rise to the costs identified in each report under this section.

(c) INFORMATION FROM POSTAL SERVICE.—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

(Added Pub. L. 109–435, title II, §204(b), Dec. 20, 2006, 120 Stat. 3211.)

§ 3652. Annual reports to the Commission

(a) COSTS, REVENUES, RATES, AND SERVICE.—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex to the report as the Commission may require under subsection (e))—

(1) which shall analyze costs, revenues, rates, and quality of service, using such methodologies as the Commission shall by regulation prescribe, and in sufficient detail to demonstrate that all products during such year complied with all applicable requirements of this title; and

(2) which shall, for each market-dominant product provided in such year, provide—

(A) product information, including mail volumes; and

(B) measures of the quality of service afforded by the Postal Service in connection with such product, including—

(i) the level of service (described in terms of speed of delivery and reliability) provided; and

(ii) the degree of customer satisfaction with the service provided.

The Inspector General shall regularly audit the data collection systems and procedures utilized in collecting information and preparing such report (including any annex thereto and the information required under subsection (b)). The results of any such audit shall be submitted to the Postal Service and the Postal Regulatory Commission.

(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

(1) The per-item cost avoided by the Postal Service by virtue of such discount.

(2) The percentage of such per-item cost avoided that the per-item workshare discount represents.

(3) The per-item contribution made to institutional costs.

(c) MARKET TESTS.—In carrying out subsections (a) and (b) with respect to experimental products offered through market tests under section 3641 in a year, the Postal Service shall—

(1) report data on the costs, revenues, and quality of service by market test, which may be reported in summary form; and

(2) report such data as the Postal Regulatory Commission requires.

(d) SUPPORTING MATTER.—The Postal Regulatory Commission shall have access, in accordance with such regulations as the Commission shall prescribe, to the working papers and any other supporting matter of the Postal Service and the Inspector General in connection with any information submitted under this section.

(e) CONTENT AND FORM OF REPORTS.—

(1) IN GENERAL.—The Postal Regulatory Commission shall, by regulation, prescribe the content and form of the public reports (and any nonpublic annex and supporting matter relating to the report) to be provided by the Postal Service under this section. In carrying out this subsection, the Commission shall give due consideration to—

(A) providing the public with timely, adequate information to assess the lawfulness of rates charged;

(B) avoiding unnecessary or unwarranted administrative effort and expense on the part of the Postal Service; and

(C) protecting the confidentiality of commercially sensitive information.

(2) REVISED REQUIREMENTS.—The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required by the Commission under this subsection whenever it shall appear that—

(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

(C) such revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

(f) CONFIDENTIAL INFORMATION.—

(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a nonpublic annex under this section or under subsection (d) contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

(2) TREATMENT.—Any information or other matter described in paragraph (1) to which the Commission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the same way as if the Commission had received notification with respect to such matter under section 504(g)(1).

(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that the Postal Service is required to make under this section in a year, copies of its then most recent—

(1) comprehensive statement under section 2401(e);

(2) performance plan under section 2803; and

(3) program performance reports under section 2804.

(Added Pub. L. 109-435, title II, §204(b), Dec. 20, 2006, 120 Stat. 3211.)

§ 3653. Annual determination of compliance

(a) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

(b) DETERMINATION OF COMPLIANCE OR NON-COMPLIANCE.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

- (1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder); or
- (2) whether any service standards in effect during such year were not met.

If, with respect to a year, no instance of non-compliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

(c) NONCOMPLIANCE WITH REGARD TO RATES OR SERVICES.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take appropriate action in accordance with subsections (c) and (e) of section 3662 (as if a complaint averring such noncompliance had been duly filed and found under such section to be justified).

(d) REVIEW OF PERFORMANCE GOALS.—The Postal Regulatory Commission shall also evaluate annually whether the Postal Service has met the goals established under sections 2803 and 2804, and may provide recommendations to the Postal Service related to the protection or promotion of public policy objectives set out in this title.

(e) REBUTTABLE PRESUMPTION.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described under paragraphs (1) and (2) of subsection (b)) during the year to which such determination relates.

(Added Pub. L. 109-435, title II, §204(b), Dec. 20, 2006, 120 Stat. 3213.)

§ 3654. Additional financial reporting

(a) ADDITIONAL FINANCIAL REPORTING.—

(1) IN GENERAL.—The Postal Service shall file with the Postal Regulatory Commission beginning with the first full fiscal year following the effective date of this section—

(A) within 40 days after the end of each fiscal quarter, a quarterly report containing the information required by the Securities and Exchange Commission to be included in quarterly reports under sections 13 and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)) on Form 10-Q, as such Form (or any successor form) may be revised from time to time;

(B) within 60 days after the end of each fiscal year, an annual report containing the information required by the Securities and Exchange Commission to be included in annual reports under such sections on Form 10-K, as such Form (or any successor form) may be revised from time to time; and

(C) periodic reports within the time frame and containing the information prescribed in Form 8-K of the Securities and Exchange

Commission, as such Form (or any successor form) may be revised from time to time.

(2) REGISTRANT DEFINED.—For purposes of defining the reports required by paragraph (1), the Postal Service shall be deemed to be the “registrant” described in the Securities and Exchange Commission Forms, and references contained in such Forms to Securities and Exchange Commission regulations are incorporated herein by reference, as amended.

(3) INTERNAL CONTROL REPORT.—For purposes of defining the reports required by paragraph (1)(B), the Postal Service shall comply with the rules prescribed by the Securities and Exchange Commission implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262), beginning with the annual report for fiscal year 2010.

(b) FINANCIAL REPORTING.—¹

(1) The reports required by subsection (a)(1)(B) shall include, with respect to the Postal Service’s pension and post-retirement health obligations—

(A) the funded status of the Postal Service’s pension and postretirement health obligations;

(B) components of the net change in the fund balances and obligations and the nature and cause of any significant changes;

(C) components of net periodic costs;

(D) cost methods and assumptions underlying the relevant actuarial valuations;

(E) the effect of a one-percentage point increase in the assumed health care cost trend rate for each future year on the service and interest costs components of net periodic postretirement health cost and the accumulated obligation;

(F) actual contributions to and payments from the funds for the years presented and the estimated future contributions and payments for each of the following 5 years;

(G) the composition of plan assets reflected in the fund balances; and

(H) the assumed rate of return on fund balances and the actual rates of return for the years presented.

(2) The Office of Personnel Management shall provide the data listed under paragraph (1) to the Postal Service not later than 30 days after the end of each fiscal year.

(3)(A) Beginning with reports for the fiscal year 2010, for purposes of the reports required under subparagraphs (A) and (B) of subsection (a)(1), the Postal Service shall include segment reporting.

(B) The Postal Service shall determine the appropriate segment reporting under subparagraph (A) after consultation with the Postal Regulatory Commission.

(c) TREATMENT.—For purposes of the reports required by subsection (a)(1)(B), the Postal Service shall obtain an opinion from an independent auditor on whether the information listed in subsection (b) is fairly stated in all material respects, either in relation to the basic financial statements as a whole or on a stand-alone basis.

¹ So in original. Probably should be capitalized.

(d) **SUPPORTING MATTER.**—The Postal Regulatory Commission shall have access to the audit documentation and any other supporting matter of the Postal Service and its independent auditor in connection with any information submitted under this section.

(e) **REVISED REQUIREMENTS.**—The Postal Regulatory Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required under this section whenever it shall appear that—

(1) the data have become significantly inaccurate or can be significantly improved; or

(2) those revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

(f) **CONFIDENTIAL INFORMATION.**—

(1) **IN GENERAL.**—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a non-public annex under this section or pursuant to subsection (d) contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

(2) **TREATMENT.**—Any information or other matter described in paragraph (1) to which the Commission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the same way as if the Commission had received notification with respect to such matter under section 504(g)(1).

(Added Pub. L. 109-435, title II, §204(b), Dec. 20, 2006, 120 Stat. 3214.)

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (a)(1), is the date of enactment of Pub. L. 109-435, which enacted this section and was approved Dec. 20, 2006.

SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

PRIOR PROVISIONS

A prior subchapter V was redesignated subchapter VI of this chapter.

AMENDMENTS

2006—Pub. L. 109-435, title II, §204(a)(1), Dec. 20, 2006, 120 Stat. 3210, redesignated subchapter IV of this chapter as this subchapter and substituted “POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW” for “POSTAL SERVICES AND COMPLAINTS” in subchapter heading.

§ 3661. Postal services

(a) The Postal Service shall develop and promote adequate and efficient postal services.

(b) When the Postal Service determines that there should be a change in the nature of postal

services which will generally affect service on a nationwide or substantially nationwide basis, it shall submit a proposal, within a reasonable time prior to the effective date of such proposal, to the Postal Regulatory Commission requesting an advisory opinion on the change.

(c) The Commission shall not issue its opinion on any proposal until an opportunity for hearing on the record under sections 556 and 557 of title 5 has been accorded to the Postal Service, users of the mail, and an officer of the Commission who shall be required to represent the interests of the general public. The opinion shall be in writing and shall include a certification by each Commissioner agreeing with the opinion that in his judgment the opinion conforms to the policies established under this title.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 764; Pub. L. 109-435, title VI, §604(f), Dec. 20, 2006, 120 Stat. 3242.)

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-435 substituted “Postal Regulatory Commission” for “Postal Rate Commission”.

EFFECTIVE DATE

Subchapter 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.

COMMISSION ON POSTAL SERVICE

Pub. L. 94-421, §7, Sept. 24, 1976, 90 Stat. 1307, related to establishment, appointment and compensation of personnel and officers of a Commission on Postal Service and its duty to determine public service aspects of Postal Service and extent to which public service aspects of Postal Service are to be supported by appropriations, to study rate making, and to review service levels and electronic fund transfers and communication techniques, with appropriate recommendations to be transmitted to President and Congress on or before Mar. 15, 1977, 60 days after which transmittal it was to cease to exist.

§ 3662. Rate and service complaints

(a) **IN GENERAL.**—Any interested person (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believes the Postal Service is not operating in conformance with the requirements of the provisions of sections 101(d), 401(2), 403(c), 404a, or 601, or this chapter (or regulations promulgated under any of those provisions) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

(b) **PROMPT RESPONSE REQUIRED.**—

(1) **IN GENERAL.**—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a)—

(A) either—

(i) upon a finding that such complaint raises material issues of fact or law, begin proceedings on such complaint; or

(ii) issue an order dismissing the complaint; and

(B) with respect to any action taken under subparagraph (A)(i) or (ii), issue a written statement setting forth the bases of its determination.