

## § 310.2

## 39 CFR Ch. I (7-1-11 Edition)

(b) *Packet* means two or more letters, identical or different, or two or more packets of letters, under one cover or otherwise bound together. As used in these regulations, unless the context otherwise requires, “letter” or “letters” includes “packet” or “packets”.

(c) *Person* means an individual, corporation, association, partnership, governmental agency, or other organization or entity.

(d) *Post routes* are routes on which mail is carried by the Postal Service, and includes post roads as defined in 39 U.S.C. 5003, as follows:

(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.

(e) *Private carriage, private carrier*, and terms of similar import used in connection with the Private Express Statutes or these regulations mean carriage by anyone other than the Postal Service, regardless of any meaning ascribed to similar terms under other bodies of law or regulation.

(f) The *Private Express Statutes* are set forth in 18 U.S.C. 1693-1699 and 39 U.S.C. 601-606 (1970).

(g) The term *identical printed letters* includes letters that differ only in name, address or serial number.

[39 FR 33211, Sept. 16, 1974, as amended at 44 FR 52833, Sept. 11, 1979; 45 FR 3034, Jan. 16, 1980; 45 FR 59873, Sept. 11, 1980; 48 FR 42354, Sept. 27, 1982]

### § 310.2 Unlawful carriage of letters.

(a) It is generally unlawful under the Private Express Statutes for any person other than the Postal Service in any manner to send or carry a letter on a post route or in any manner to cause or assist such activity. Violation may result in injunction, fine or imprisonment or both and payment of postage lost as a result of the illegal activity (see § 310.5).

(b) Activity described in paragraph (a) of this section is lawful with respect to a letter if:

(1)(i) The letter is enclosed in an envelope or other suitable cover;

(ii) The amount of postage which would have been charged on the letter if it had been sent through the Postal Service is paid by stamps, or postage meter stamps, on the cover or by other methods approved by the Postal Service;

(iii) The name and address of the person for whom the letter is intended appear on the cover;

(iv) The cover is so sealed that the letter cannot be taken from it without defacing the cover;

(v) Any stamps on the cover are canceled in ink by the sender; and

(vi) The date of the letter, or of its transmission or receipt by the carrier, is endorsed on the cover in ink by the sender or carrier, as appropriate; or

(2)(i) The activity is in accordance with the terms of a written agreement between the shipper or the carrier of the letter and the Postal Service. Such an agreement may include some or all of the provisions of paragraph (b)(1) of this section, or it may change them, but it must:

(A) Adequately ensure payment of an amount equal to the postage to which the Postal Service would have been entitled had the letters been carried in the mail;

(B) Remain in effect for a specified period (subject to renewals); and

(C) Provide for periodic review, audit, and inspection.

(ii) Possible alternative arrangements may include but are not limited to:

(A) Payment of a fixed sum at specified intervals based on the shipper's projected shipment of letters for a given period, as verified by the Postal Service; or

(B) Utilization of a computer record to determine the volume of letters shipped during an interval and the applicable postage to be remitted to the Postal Service.

(c) The Postal Service may suspend the operation of any part of paragraph (b) of this section where the public interest requires the suspension.

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(d) Activity described in paragraph (a) of this section is permitted with respect to letters which:

(1) Relate to some part of the cargo of, or to some article carried at the same time by, the conveyance carrying it (see § 310.3(a));

(2) Are sent by or addressed to the carrier (see § 310.3(b));

(3) Are conveyed or transmitted without compensation (see § 310.3(c));

(4) Are conveyed or transmitted by special messenger employed for the particular occasion only, provided that not more than twenty-five such letters are conveyed or transmitted by such special messenger (see § 310.3(d)); or

(5) Are carried prior or subsequent to mailing (see § 310.3(e)).

[39 FR 33211, Sept. 16, 1974, as amended at 45 FR 77029, Nov. 21, 1980]

### § 310.3 Exceptions.

(a) *Cargo.* The sending or carrying of letters is permissible if they accompany and relate in all substantial respects to some part of the cargo or to the ordering, shipping or delivering of the cargo.

(b) *Letters of the carrier.* (1) The sending or carrying of letters is permissible if they are sent by or addressed to the person carrying them. If the individual actually carrying the letters is not the person sending the letters or to whom the letters are addressed, then such individual must be an officer or employee of such person (see § 310.3(b)(2)) and the letters must relate to the current business of such person.

(2) The fact that the individual actually carrying the letters may be an officer or employee of the person sending the letters or to whom the letters are addressed for certain purposes does not necessarily mean that he is an officer or employee for purposes of this exception. The following factors bear on qualifications for the exception: the carrying employee is employed for a substantial time, if not fulltime (letters must not be privately carried by casual employees); the carrying employee carries no matter for other senders; the carrying employee is a regular salaried employee and shares in all privileges enjoyed by other regular employees (including employees not engaged primarily by the letter car-

rying function), including but not limited to salary, annual vacation time, absence allowed for illness, health benefits, workmen's compensation insurance, and retirement benefits.

(3) Separately incorporated carriers are separate entities for purposes of this exception, regardless of any subsidiary, ownership, or leasing arrangement. When, however, two concerns jointly operate an enterprise with joint employees and share directly in its revenues and expenses, either of the concerns may carry the letters of the joint enterprise.

(c) *Private hands without compensation.* The sending or carrying of letters without compensation is permitted. Compensation generally consists of a monetary payment for services rendered. Compensation may also consist, however, of non-monetary valuable consideration and of good will. Thus, for example, when a business relationship exists or is sought between the carrier and its user, carriage by the carrier of the user's letter will ordinarily not fall under this exception; or, when a person is engaged in the transportation of goods or persons for hire, his carrying of letters "free of charge" for customers whom he does charge for the carriage of goods or persons does not fall under this exception.

(d) *Special messenger.* (1) The use of a special messenger employed for the particular occasion only is permissible to transmit letters if not more than twenty-five letters are involved. The permission granted under this exception is restricted to use of messenger service on an infrequent, irregular basis by the sender or addressee of the message.

(2) A special messenger is a person who, at the request of either the sender or the addressee, picks up a letter from the sender's home or place of business and carries it to the addressee's home or place of business, but a messenger or carrier operating regularly between fixed points is not a special messenger.

(e) *Carriage prior or subsequent to mailing.* (1) The private carriage of letters which enter the mail stream at some point between their origin and their destination is permissible. Except as provided in paragraph (e)(3) of this section, however, the carriage of letters