

(C) damages.

(2) **KNOWING ACTION.**—A person acts knowingly for purposes of paragraph (1) when—

(A) the person has actual knowledge of the facts giving rise to the violation; or

(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

(3) **SEPARATE VIOLATIONS.**—

(A) **VIOLATIONS OVER TIME.**—A separate violation under this subsection occurs for each day hazardous material, mailed or caused to be mailed in noncompliance with this section, is in the mail.

(B) **SEPARATE ITEMS.**—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

(d) **HEARINGS.**—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing. Proceedings under this section shall be conducted in accordance with section 3001(m).

(e) **PENALTY CONSIDERATIONS.**—In determining the amount of a civil penalty for a violation of this section, the Postal Service shall consider—

(1) the nature, circumstances, extent, and gravity of the violation;

(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

(3) the impact on Postal Service operations; and

(4) any other matters that justice requires.

(f) **CIVIL ACTIONS TO COLLECT.**—

(1) **IN GENERAL.**—In accordance with section 409(d), a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, and damages assessed under subsection (c).

(2) **COMPROMISE.**—The Postal Service may compromise the amount of a civil penalty, clean-up costs, and damages assessed under subsection (c) before commencing a civil action with respect to such civil penalty, clean-up costs, and damages under paragraph (1).

(g) **CIVIL JUDICIAL PENALTIES.**—

(1) **IN GENERAL.**—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

(2) **RELIEF.**—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

(3) **CONSTRUCTION.**—A civil action under this subsection shall be in lieu of civil penalties for the same violation under subsection (c)(1)(A).

(h) **DEPOSIT OF AMOUNTS COLLECTED.**—

(1) **POSTAL SERVICE FUND.**—Except as provided under paragraph (2), amounts collected

under subsection (c)(1)(B) and (C) shall be deposited into the Postal Service Fund under section 2003.

(2) **TREASURY.**—Amounts collected under subsection (c)(1)(A) and any punitive damages collected under subsection (c)(1)(C) shall be deposited into the Treasury of the United States.

(Added Pub. L. 109-435, title X, § 1008(b), Dec. 20, 2006, 120 Stat. 3259.)

## CHAPTER 32—PENALTY AND FRANKED MAIL

|            |   |
|------------|---|
| Sec. 3201. | Definitions.  |
| 3202.      | Penalty mail.   |
| 3203.      | Endorsements on penalty covers.   |
| 3204.      | Restrictions on use of penalty mail.  |
| 3205.      | Accounting for penalty covers.  |
| 3206.      | Reimbursement for penalty mail service.   |
| 3207.      | Limit of weight of penalty mail; postage on overweight matter.  |
| 3208.      | Shipment by most economical means.  |
| 3209.      | Executive departments to supply information.  |
| 3210.      | Franked mail transmitted by the Vice President, Members of Congress, and congressional officials.             |
| 3211.      | Public documents.   |
| 3212.      | Congressional Record under frank of Members of Congress.  |
| 3213.      | Seeds and reports from Department of Agriculture.   |
| 3214.      | Mailing privilege of former President; surviving spouse of former President.                                  |
| 3215.      | Lending or permitting use of frank unlawful.  |
| 3216.      | Reimbursement for franked mailings.   |
| 3217.      | Correspondence of members of diplomatic corps and consuls of countries of Postal Union of Americas and Spain. |
| 3218.      | Franked mail for survivors of Members of Congress.  |
| 3219.      | Mailgrams.  |
| 3220.      | Use of official mail in the location and recovery of missing children.  |

### Editorial Notes

#### AMENDMENTS

1985—Pub. L. 99-87, § 1(a)(2), Aug. 9, 1985, 99 Stat. 290, added item 3220.

1981—Pub. L. 97-69, § 6(c)(2), Oct. 26, 1981, 95 Stat. 1043, substituted “survivors” for “surviving spouses” in item 3218.

1973—Pub. L. 93-191, §§ 1(b), 4(b), 12(b), Dec. 18, 1973, 87 Stat. 741, 742, 746, substituted “Franked mail transmitted by the Vice President, Members of Congress, and congressional officials” for “Official correspondence of Vice President and Members of Congress” in item 3210, substituted “President, surviving spouse of former President” for “Presidents” in item 3214, and added item 3219.

### § 3201. Definitions

As used in this chapter—

(1) “penalty mail” means official mail, other than franked mail, which is authorized by law to be transmitted in the mail without prepayment of postage;

(2) “penalty cover” means envelopes, wrappers, labels, or cards used to transmit penalty mail;

(3) “frank” means the autographic or facsimile signature of persons authorized by sections 3210-3216 and 3218 of this title to transmit matter through the mail without prepayment of postage or other indicia contemplated by sections 733 and 907 of title 44;

(4) “franked mail” means mail which is transmitted in the mail under a frank;

(5) “Members of Congress” includes Senators, Representatives, Delegates, and Resident Commissioners; and

(6) “missing child” has the meaning provided by section 403(1) of the Juvenile Justice and Delinquency Prevention Act of 1974.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 751; Pub. L. 99-87, §1(b), Aug. 9, 1985, 99 Stat. 291.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 403 of the Juvenile Justice and Delinquency Prevention Act of 1974, referred to in par. (6), is section 403 of Pub. L. 93-415, which is classified to section 11292 of Title 34, Crime Control and Law Enforcement.

##### AMENDMENTS

1985—Par. (6). Pub. L. 99-87 added par. (6).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section 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.

#### § 3202. Penalty mail

(a) Subject to the limitations imposed by sections 3204 and 3207 of this title, there may be transmitted as penalty mail—

(1) official mail of—

(A) officers of the Government of the United States other than Members of Congress;

(B) the Smithsonian Institution;

(C) the Pan American Union;

(D) the Pan American Sanitary Bureau; and

(E) the United States Employment Service and the system of employment offices operated by it in conformity with the provisions of sections 49-49c, 49d, 49e-49k of title 29, and all State employment systems which receive funds appropriated under authority of those sections.

(2) mail relating to naturalization to be sent to the Immigration and Naturalization Service by clerks of courts addressed to the Department of Justice or the Immigration and Naturalization Service, or any official thereof; and

(3) mail relating to a collection of statistics, survey, or census authorized by title 13 and addressed to the Department of Commerce or a bureau or agency thereof.

(b) A department or officer authorized to use penalty covers may enclose them with return address to any person from or through whom official information is desired. The penalty cover may be used only to transmit the official information and endorsements relating thereto.

(c) This section does not apply to officers who receive a fixed allowance as compensation for their services including expenses of postage.

(Pub. L. 91-375, Aug. 12, 1970, 84 Stat. 751; Pub. L. 94-553, §105(e), Oct. 19, 1976, 90 Stat. 2599; Pub. L.

103-123, title VII, §708(b), Oct. 28, 1993, 107 Stat. 1272; Pub. L. 110-234, title VII, §7404(b)(2)(B), May 22, 2008, 122 Stat. 1247; Pub. L. 110-246, §4(a), title VII, §7404(b)(2)(B), June 18, 2008, 122 Stat. 1664, 2008.)

#### Editorial Notes

##### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

##### AMENDMENTS

2008—Subsec. (a)(1)(D) to (F). Pub. L. 110-246, §7404(b)(2)(B)(i), in subpar. (D) inserted “and” at end, in subpar. (E) substituted period for “; and” at end, and struck out subpar. (F) which read as follows: “any college officer or other person connected with the extension department of the college as the Secretary of Agriculture may designate to the Postal Service to the extent that the official mail consists of correspondence, bulletins, and reports for the furtherance of the purpose of sections 341-343 and 344-348 of title 7;”.

Subsec. (a)(2) to (4). Pub. L. 110-246, §7404(b)(2)(B)(ii)-(iv), in par. (2) inserted “and” at end, in par. (3) substituted period for “; and” at end, and struck out par. (4) which read as follows: “mail of State agriculture experiment stations pursuant to sections 325 and 361f of title 7.”

1993—Subsec. (a)(3), (4). Pub. L. 103-123 inserted “and” at end of par. (3) and substituted period for “; and” at end of par. (4).

1976—Subsec. (a)(5). Pub. L. 94-553 struck out par. (5) which related to articles for copyright deposited with postmasters and addressed to the Register of Copyrights pursuant to section 15 of title 17.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

##### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-553 effective Jan. 1, 1978, see section 102 of Pub. L. 94-553, set out as an Effective Date note preceding section 101 of Title 17, Copyrights.

##### EFFECTIVE DATE

Section 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.

##### ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

##### PAYMENT OF POSTAGE FOR STATE UNEMPLOYMENT COMPENSATION SYSTEMS AND EMPLOYMENT SERVICES

Pub. L. 92-80, title I, Aug. 10, 1971, 85 Stat. 287, which required Department of Labor and Post Office Department to use such amounts as may be agreed upon for the payment of postage for the transmission of official mail matter in connection with the administration of unemployment compensation systems and employment services by States receiving grants, was from the Department of Labor Appropriation Act, 1972, and was not repeated in subsequent appropriation acts. See section 3202(a)(1)(E) of this title.