(A) why the goal was not met;

(B) those plans and schedules for achieving the established performance goal; and

(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended; and

(4) include the summary findings of those program evaluations completed during the fiscal year covered by the report.

(Added Pub. L. 103–62, § 7, Aug. 3, 1993, 107 Stat. 294; amended Pub. L. 109–435, title X, § 1010(d)(2), Dec. 20, 2006, 120 Stat. 3261.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–435 substituted ''section 2401(e)'' for ''section 2401(g)''.

§ 2805. Inherently Governmental functions

The functions and activities of this chapter shall be considered to be inherently Governmental functions. The drafting of strategic plans, performance plans, and program performance reports under this section shall be performed only by employees of the Postal Service.

(Added Pub. L. 103–62, § 7, Aug. 3, 1993, 107 Stat. 294.)

PART IV—MAIL MATTER

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CHAPTER 30—NONMAILABLE MATTER

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3018. Hazardous material.

AMENDMENTS

2006—Pub. L. 109–435, title X, § 1008(c)(2), Dec. 20, 2006, 120 Stat. 3260, added item 3018.

1999—Pub. L. 106–168, title I, §§ 105(b)(1), 107(d), 108(b), Dec. 12, 1999, 113 Stat. 1811, 1814, 1816, repealed item 3006 ''Unlawful matter'' and added items 3016 and 3017.

1992—Pub. L. 102–393, title VI, § 631(d)(2), Oct. 6, 1992, 106 Stat. 1776, added item 3015.

1988—Pub. L. 100–690, title VII, § 7090(b), Nov. 18, 1988, 102 Stat. 4410, added item 3002a.

Pub. L. 100–574, § 1(a)(2), Oct. 31, 1988, 102 Stat. 2893, added item 3014.

1983—Pub. L. 98–186, § 3(c), Nov. 30, 1983, 97 Stat. 1317, added items 3012 and 3013.

§ 3001. Nonmailable matter

(a) Matter the deposit of which in the mails is punishable under section 1302, 1341, 1342, 1461, 1463, 1715, 1716, 1717, or 1738[1] of title 18, or section 26 of the Animal Welfare Act is nonmailable.

(b) Except as provided in subsection (c) of this section, nonmailable matter which reaches the office of delivery, or which may be seized or detained for violation of law, shall be disposed of as the Postal Service shall direct.

(c)(1) Matter which—

(A) exceeds the size and weight limits prescribed for the particular class of mail; or

(B) is of a character perishable within the period required for transportation and delivery;

is nonmailable.

(2) Matter made nonmailable by this subsection which reaches the office of destination may be delivered in accordance with its address, if the party addressed furnishes the name and address of the sender.

(d) Matter otherwise legally acceptable in the mails which—

(1) is in the form of, and reasonably could be interpreted or construed as, a bill, invoice, or statement of account due; but

(2) constitutes, in fact, a solicitation for the order by the addressee of goods or services, or both;

is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe—

(A) the following notice: ''This is a solicitation for the order of goods or services, or both, and not a bill, invoice, or statement of account due. You are under no obligation to make any payments on account of this offer unless you accept this offer.''; or

(B) in lieu thereof, a notice to the same effect in words which the Postal Service may prescribe.

(e)(1) Any matter which is unsolicited by the addressee and which is designed, adapted, or intended for preventing conception (except unsolicited samples thereof mailed to a manufacturer thereof, a dealer therein, a licensed physician or surgeon, or a nurse, pharmacist, druggist, hospital, or clinic) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

(2) Any unsolicited advertisement of matter which is designed, adapted, or intended for preventing conception is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs unless the advertisement—

[1] See References in Text note below.

(A) is mailed to a manufacturer of such matter, a dealer therein, a licensed physician or surgeon, or a nurse, pharmacist, druggist, hospital, or clinic; or

(B) accompanies in the same parcel any unsolicited sample excepted by paragraph (1) of this subsection.

An advertisement shall not be deemed to be unsolicited for the purposes of this paragraph if it is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive.

(f) Any matter which is unsolicited by the addressee, which contains a ''household substance'' (as defined by section 2 of the Poison Prevention Packaging Act of 1970), and which does not comply with the requirements for special child-resistant packaging established for that substance by the Consumer Product Safety Commission, is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

(g)(1) Matter otherwise legally acceptable in the mails which contains or includes a fragrance advertising sample is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless the sample is sealed, wrapped, treated, or otherwise prepared in a manner reasonably designed to prevent individuals from being unknowingly or involuntarily exposed to the sample.

(2) The Postal Service shall by regulation establish the standards or requirements which a fragrance advertising sample must satisfy in order for the mail matter involved not to be considered nonmailable under this subsection.

(h) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity for the purchase of or payment for a product or service; and which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government is nonmailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

(1) such nongovernmental entity has such expressed connection, approval or endorsement;

(2)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: **"THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT."**, or a notice to the same effect in words which the Postal Service may prescribe;

(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: **"THIS IS NOT A GOVERNMENT DOCUMENT."**, or a notice to the same effect in words which the Postal Service may prescribe; and

(C) such matter does not contain a false representation stating or implying that Federal Government benefits or services will be affected by any purchase or nonpurchase; or

(3) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

(i) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity for information or the contribution of funds or membership fees and which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government is nonmailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

(1) such nongovernmental entity has such expressed connection, approval or endorsement;

(2)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: **"THIS ORGANIZATION HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT."**, or a notice to the same effect in words which the Postal Service may prescribe;

(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: **"THIS IS NOT A GOVERNMENT DOCUMENT."**, or a notice to the same effect in words which the Postal Service may prescribe; and

(C) such matter does not contain a false representation stating or implying that Federal Government benefits or services will be affected by any contribution or noncontribution; or

(3) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has other-

wise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

(j)(1) Any matter otherwise legally acceptable in the mails which is described in paragraph (2) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

(2) Matter described in this paragraph is any matter that—

(A) constitutes a solicitation for the purchase of or payment for any product or service that—

(i) is provided by the Federal Government; and

(ii) may be obtained without cost from the Federal Government; and

(B) does not contain a clear and conspicuous statement giving notice of the information set forth in clauses (i) and (ii) of subparagraph (A).

(k)(1) In this subsection—

(A) the term ''clearly and conspicuously displayed'' means presented in a manner that is readily noticeable, readable, and understandable to the group to whom the applicable matter is disseminated;

(B) the term ''facsimile check'' means any matter that—

(i) is designed to resemble a check or other negotiable instrument; but

(ii) is not negotiable;

(C) the term ''skill contest'' means a puzzle, game, competition, or other contest in which—

(i) a prize is awarded or offered;

(ii) the outcome depends predominately on the skill of the contestant; and

(iii) a purchase, payment, or donation is required or implied to be required to enter the contest; and

(D) the term ''sweepstakes'' means a game of chance for which no consideration is required to enter.

(2) Except as provided in paragraph (4), any matter otherwise legally acceptable in the mails which is described in paragraph (3) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

(3) Matter described in this paragraph is any matter that—

(A)(i) includes entry materials for a sweepstakes or a promotion that purports to be a sweepstakes; and

(ii)(I) does not contain a statement that discloses in the mailing, in the rules, and on the order or entry form, that no purchase is necessary to enter such sweepstakes;

(II) does not contain a statement that discloses in the mailing, in the rules, and on the order or entry form, that a purchase will not improve an individual's chances of winning with such entry;

(III) does not state all terms and conditions of the sweepstakes promotion, including the rules and entry procedures for the sweepstakes;

(IV) does not disclose the sponsor or mailer of such matter and the principal place of business or an address at which the sponsor or mailer may be contacted;

(V) does not contain sweepstakes rules that state—

(aa) the estimated odds of winning each prize;

(bb) the quantity, estimated retail value, and nature of each prize; and

(cc) the schedule of any payments made over time;

(VI) represents that individuals not purchasing products or services may be disqualified from receiving future sweepstakes mailings;

(VII) requires that a sweepstakes entry be accompanied by an order or payment for a product or service previously ordered;

(VIII) represents that an individual is a winner of a prize unless that individual has won such prize; or

(IX) contains a representation that contradicts, or is inconsistent with sweepstakes rules or any other disclosure required to be made under this subsection, including any statement qualifying, limiting, or explaining the rules or disclosures in a manner inconsistent with such rules or disclosures;

(B)(i) includes entry materials for a skill contest or a promotion that purports to be a skill contest; and

(ii)(I) does not state all terms and conditions of the skill contest, including the rules and entry procedures for the skill contest;

(II) does not disclose the sponsor or mailer of the skill contest and the principal place of business or an address at which the sponsor or mailer may be contacted; or

(III) does not contain skill contest rules that state, as applicable—

(aa) the number of rounds or levels of the contest and the cost to enter each round or level;

(bb) that subsequent rounds or levels will be more difficult to solve;

(cc) the maximum cost to enter all rounds or levels;

(dd) the estimated number or percentage of entrants who may correctly solve the skill contest or the approximate number or percentage of entrants correctly solving the past 3 skill contests conducted by the sponsor;

(ee) the identity or description of the qualifications of the judges if the contest is judged by other than the sponsor;

(ff) the method used in judging;

(gg) the date by which the winner or winners will be determined and the date or process by which prizes will be awarded;

(hh) the quantity, estimated retail value, and nature of each prize; and

(ii) the schedule of any payments made over time; or

(C) includes any facsimile check that does not contain a statement on the check itself that such check is not a negotiable instrument and has no cash value.

(4) Matter that appears in a magazine, newspaper, or other periodical shall be exempt from paragraph (2) if such matter—

(A) is not directed to a named individual; or

(B) does not include an opportunity to make a payment or order a product or service.

(5) Any statement, notice, or disclaimer required under paragraph (3) shall be clearly and conspicuously displayed. Any statement, notice, or disclaimer required under subclause (I) or (II) of paragraph (3)(A)(ii) shall be displayed more conspicuously than would otherwise be required under the preceding sentence.

(6) In the enforcement of paragraph (3), the Postal Service shall consider all of the materials included in the mailing and the material and language on and visible through the envelope or outside cover or wrapper in which those materials are mailed.

(*l*)(1) Any person who uses the mails for any matter to which subsection (h), (i), (j), or (k) applies shall adopt reasonable practices and procedures to prevent the mailing of such matter to any person who, personally or through a conservator, guardian, or individual with power of attorney—

(A) submits to the mailer of such matter a written request that such matter should not be mailed to such person; or

(B)(i) submits such a written request to the attorney general of the appropriate State (or any State government officer who transmits the request to that attorney general); and

(ii) that attorney general transmits such request to the mailer.

(2) Any person who mails matter to which subsection (h), (i), (j), or (k) applies shall maintain or cause to be maintained a record of all requests made under paragraph (1). The records shall be maintained in a form to permit the suppression of an applicable name at the applicable address for a 5-year period beginning on the date the written request under paragraph (1) is submitted to the mailer.

(m) Except as otherwise provided by law, proceedings concerning the mailability of matter under this chapter and chapters 71 and 83 of title 18 shall be conducted in accordance with chapters 5 and 7 of title 5.

(n)(1) Except as otherwise authorized by law or regulations of the Postal Service, hazardous material is nonmailable.

(2) In this subsection, the term ''hazardous material'' means a substance or material designated by the Secretary of Transportation under section 5103(a) of title 49.

(*o*) The district courts, together with the District Court of the Virgin Islands and the District Court of Guam, shall have jurisdiction, upon cause shown, to enjoin violations of section 1716 of title 18.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 745; Pub. L. 91–662, § 6(1), Jan. 8, 1971, 84 Stat. 1974; Pub. L. 92–191, § 2, Dec. 15, 1971, 85 Stat. 647; Pub. L. 89–544, § 26(h)(2), as added Pub. L. 94–279, § 17, Apr. 22, 1976, 90 Stat. 423; Pub. L. 97–398, § 5, Dec. 31, 1982, 96 Stat. 2011; Pub. L. 101–493, § 2, Oct. 31, 1990, 104 Stat. 1184; Pub. L. 101–524, § 2(a), Nov. 6, 1990, 104 Stat. 2301; Pub. L. 102–71, § 2(1), July 10, 1991, 105 Stat. 330; Pub. L. 106–168, title I, §§ 102, 103, 110(a), Dec. 12, 1999, 113 Stat. 1806, 1808, 1817; Pub. L. 109–435, title X, § 1008(a), Dec. 20, 2006, 120 Stat. 3259.)

REFERENCES IN TEXT

Section 1738 of title 18, referred to in subsec. (a), was repealed by Pub. L. 106–578, § 4, Dec. 28, 2000, 114 Stat. 3076.

Section 26 of the Animal Welfare Act, referred to in subsec. (a), is section 26(a)–(h)(1) of Pub. L. 89–544 as added by Pub. L. 94–279, § 17, Apr. 22, 1976, 90 Stat. 421, which is classified to section 2156 of Title 7, Agriculture.

Section 2 of the Poison Prevention Packaging Act of 1970, referred to in subsec. (f), is classified to section 1471 of Title 15, Commerce and Trade.

AMENDMENTS

2006—Subsecs. (n), (*o*). Pub. L. 109–435 added subsec. (n) and redesignated former subsec. (n) as (*o*).

1999—Subsec. (a). Pub. L. 106–168, § 110(a), struck out ''1714,'' after ''1463,'' and ''1718,'' after ''1717,''.

Subsec. (h). Pub. L. 106–168, § 102(1)(A), in introductory provisions, substituted ''which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government'' for ''contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement''.

Subsec. (h)(2)(C). Pub. L. 106–168, § 102(1)(B), added subpar. (C).

Subsec. (i). Pub. L. 106–168, § 102(2)(A), in introductory provisions, substituted ''which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government'' for ''contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement''.

Subsec. (i)(2)(C). Pub. L. 106–168, § 102(2)(B), added subpar. (C).

Subsec. (j). Pub. L. 106–168, § 102(3), (4), added subsec. (j). Former subsec. (j) redesignated (m).

Subsec. (k). Pub. L. 106–168, §§ 102(3), 103, added subsec. (k). Former subsec. (k) redesignated (n).

Subsec. (*l*). Pub. L. 106–168, § 103, added subsec. (*l*).

Subsecs. (m), (n). Pub. L. 106–168, § 102(3), redesignated subsecs. (j) and (k) as (m) and (n), respectively.

1991—Subsecs. (i) to (k). Pub. L. 102–71 redesignated subsec. (i), relating to conduct of proceedings concerning mailability of certain matter, as (j), and former subsec. (j), relating to jurisdiction of district courts, as (k).

1990—Subsec. (f). Pub. L. 101–524 added subsec. (f). Former subsec. (f) redesignated (i).

Pub. L. 101–493 added subsec. (f). Former subsec. (f), as added by Pub. L. 101–524, redesignated (h).

Subsec. (g). Pub. L. 101–524 added subsec. (g). Former subsec. (g) redesignated (j).

Pub. L. 101–493 added subsec. (g). Former subsec. (g), as added by Pub. L. 101–524, redesignated (i).

Subsec. (h). Pub. L. 101–493 redesignated subsec. (f), as added by Pub. L. 101–524, as (h).

Subsec. (i). Pub. L. 101–524 redesignated subsec. (f) as (i).

Pub. L. 101–493 redesignated subsec. (g), as added by Pub. L. 101–524, as (i).

Subsec. (j). Pub. L. 101–524 redesignated subsec. (g) as (j).

1982—Subsec. (a). Pub. L. 97–398 substituted ‘‘, 1718, or 1738’’ for ‘‘or 1718’’.

1976—Subsec. (a). Pub. L. 94–279 inserted ‘‘, or section 26 of the Animal Welfare Act’’ after ‘‘title 18’’.

1971—Subsecs. (e), (f). Pub. L. 91–662, § 6(1)(A), (B), added subsec. (e) and redesignated former subsec. (e) as (f). Section 5(a) of Pub. L. 91–662 inserted a similar provision to section 4001 of former Title 39, The Postal Service, pending the effective date of this section. Said amendment to section 4001 has not been executed in view of the passage of Title 39, Postal Service, as enacted by the Postal Reorganization Act.

Subsec. (g). Pub. L. 92–191 added subsec. (g).

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–168, title I, § 111, Dec. 12, 1999, 113 Stat. 1817, provided that: ‘‘Except as provided in section 108 or 110(b) [enacting section 3017 of this title, amending section 3013 of this title, and enacting provisions set out as notes under sections 3013 and 3017 of this title], this title [see Short Title of 1999 Amendment note below] shall take effect 120 days after the date of the enactment of this Act [Dec. 12, 1999].’’

EFFECTIVE DATE OF 1990 AMENDMENTS

Section 6 of Pub. L. 101–524 provided that: ‘‘The provisions of this Act [enacting section 413 of this title, amending this section and section 3005 of this title, and enacting provisions set out as notes below] shall take effect on the date of the enactment of this Act [Nov. 6, 1990], except the amendments made by section 2 [amending this section and section 3005 of this title] shall apply to matter deposited for mailing and delivery on or after 180 days after the date of the enactment of this Act.’’

Section 3 of Pub. L. 101–493 provided that: ‘‘The amendments made by this Act [amending this section] shall take effect 180 days after the date of enactment of this Act [Oct. 31, 1990], and shall apply with respect to any matter mailed on or after that effective date.’’

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–191 effective at beginning of third calendar month following Dec. 15, 1971, or on the date that this section becomes effective pursuant to section 15(a) of Pub. L. 91–375, which is set out as and Effective Date note preceding section 101 of this title, whichever is later, see section 3 of Pub. L. 92–191, set out as a note under section 1716 of Title 18, Crimes and Criminal Procedure.

Section 6 of Pub. L. 91–662 provided that the amendment made by that section is effective on the date that the Board of Governors of the United States Postal Service establishes as the effective date for section 3001 of title 39 of the United States Code, as enacted by the Postal Reorganization Act.

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.

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–168, title I, § 101, Dec. 12, 1999, 113 Stat. 1806, provided that: ‘‘This title [enacting sections 3016 and 3017 of this title, amending this section and sections 3005, 3007, 3011, 3012, and 3013 of this title, repealing section 3006 of this title, and enacting provisions set out as notes under this section and sections 3013, 3016, and 3017 of this title] may be cited as the ‘Deceptive Mail Prevention and Enforcement Act’.’’

SHORT TITLE OF 1990 AMENDMENTS

Section 1 of Pub. L. 101–524 provided that: ‘‘This Act [enacting section 413 of this title, amending this section and section 3005 of this title, and enacting provisions set out as notes under this section] may be cited as the ‘Deceptive Mailings Prevention Act of 1990’.’’

Section 1 of Pub. L. 101–493 provided that: ‘‘This Act [amending this section and enacting provisions set out above] may be cited as the ‘Drug and Household Substance Mailing Act of 1990’.’’

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98–186, § 1, Nov. 30, 1983, 97 Stat. 1315, provided: ‘‘That this Act [enacting sections 3012 and 3013 of this title, amending section 3005 of this title, and enacting provisions set out as notes under sections 3005 and 3012 of this title] may be cited as the ‘Mail Order Consumer Protection Amendments of 1983’.’’

STATE LAW NOT PREEMPTED

Pub. L. 106–168, title I, § 109, Dec. 12, 1999, 113 Stat. 1816, provided that:

‘‘(a) IN GENERAL.—Nothing in the provisions of this title [see Short Title of 1999 Amendment note above] (including the amendments made by this title) or in the regulations promulgated under such provisions shall be construed to preempt any provision of State or local law that imposes more restrictive requirements, regulations, damages, costs, or penalties. No determination by the Postal Service that any particular piece of mail or class of mail is in compliance with such provisions of this title shall be construed to preempt any provision of State or local law.

‘‘(b) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State or any specific civil or criminal statute of such State.’’

COORDINATION OF FUNCTIONS WITH DEPARTMENT OF HEALTH AND HUMAN SERVICES

Section 4 of Pub. L. 101–524 provided that: ‘‘The United States Postal Service shall consult and coordinate the functions and administration of the provisions of this Act and the amendments made by this Act [see Short Title of 1990 Amendments note above] with the Secretary of the Department of Health and Human Services and the functions of the Secretary in the administration of section 428 of the Medicare Catastrophic Coverage Act of 1988 (42 U.S.C. 1320b–10) [Pub. L. 100–360, which enacted section 1320b–10 of Title 42, The Public Health and Welfare, amended section 1395ss of Title 42, and enacted provisions set out as a note under section 1320b–10 of Title 42].’’

NOTICE WITH RESPECT TO OBSCENE MATTER DISTRIBUTED BY MAIL AND DETENTION THEREOF

Pub. L. 87–793, § 307, Oct. 11, 1962, 76 Stat. 841, provided that: ‘‘In order to alert the recipients of mail and the general public to the fact that large quantities of obscene, lewd, lascivious, and indecent matter are being introduced into this country from abroad and disseminated in the United States by means of the United States mails, the Postmaster General shall publicize such fact (1) by appropriate notices posted in post offices, and (2) by notifying recipients of mail, whenever he deems it appropriate in order to carry out the purposes of this section, that the United States mails may contain such obscene, lewd, lascivious, or indecent matter. Any person may file a written request with his local post office to detain obscene, lewd, lascivious, or indecent matter addressed to him, and the Postmaster General shall detain and dispose of such matter for such period as the request is in effect. The Postmaster General shall permit the return of mail containing obscene, lewd, lascivious, or indecent matter, to local post offices, without cost to the recipient thereof. Nothing in this section shall be deemed to authorize the Postmaster General to open, inspect, or censor any mail except on specific request by the addressee thereof. The Postmaster General is authorized to prescribe

such regulations as he may deem appropriate to carry out the purposes of this section.''

§ 3002. Nonmailable motor vehicle master keys

(a) Except as provided in subsection (b) of this section, any motor vehicle master key, any pattern, impression, or mold from which a motor vehicle master key may be made, or any advertisement for the sale of any such key, pattern, impression, or mold, is nonmailable matter and shall not be carried or delivered by mail.

(b) The Postal Service is authorized to make such exemptions from the provisions of subsection (a) of this section as it deems necessary.

(c) For the purposes of this section, ''motor vehicle master key'' means any key (other than the key furnished by the manufacturer with the motor vehicle, or the key furnished with a replacement lock, or any exact duplicate of such keys) designed to operate 2 or more motor vehicle ignition, door, or trunk locks of different combinations.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 746.)

§ 3002a. Nonmailability of locksmithing devices

(a) Any locksmithing device is nonmailable mail, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such device is mailed to—

(1) a lock manufacturer or distributor;
(2) a bona fide locksmith;
(3) a bona fide repossessor; or
(4) a motor vehicle manufacturer or dealer.

(b) For the purpose of this section, ''locksmithing device'' means—

(1) a device or tool (other than a key) designed to manipulate the tumblers in a lock into the unlocked position through the keyway of such lock;

(2) a device or tool (other than a key or a device or tool under paragraph (1)) designed for the unauthorized opening or bypassing of a lock or similar security device; and

(3) a device or tool designed for making an impression of a key or similar security device to duplicate such key or device.

(Added Pub. L. 100–690, title VII, § 7090(a), Nov. 18, 1988, 102 Stat. 4409.)

§ 3003. Mail bearing a fictitious name or address

(a) Upon evidence satisfactory to the Postal Service that any person is using a fictitious, false, or assumed name, title, or address in conducting, promoting, or carrying on or assisting therein, by means of the postal services of the United States, an activity in violation of sections 1302, 1341, and 1342 of title 18, it may—

(1) withhold mail so addressed from delivery; and

(2) require the party claiming the mail to furnish proof to it of the claimant's identity and right to receive the mail.

(b) The Postal Service may issue an order directing that mail, covered by subsection (a) of this section, be forwarded to a dead letter office as fictitious matter, or be returned to the sender when—

(1) the party claiming the mail fails to furnish proof of his identity and right to receive the mail; or

(2) the Postal Service determines that the mail is addressed to a fictitious, false, or assumed name, title, or address.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 746.)

§ 3004. Delivery of mail to persons not residents of the place of address

Whenever the Postal Service determines that letters or parcels sent in the mail are addressed to places not the residence or regular business address of the person for whom they are intended, to enable the person to escape identification, the Postal Service may deliver the mail only upon identification of the person so addressed.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 747.)

§ 3005. False representations; lotteries

(a) Upon evidence satisfactory to the Postal Service that any person is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations, including the mailing of matter which is nonmailable under section 3001(d), (h), (i), (j), or (k) of this title, or is engaged in conducting a lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind, the Postal Service may issue an order which—

(1) directs the postmaster of the post office at which mail arrives, addressed to such a person or to his representative, to return such mail to the sender appropriately marked as in violation of this section, if the person, or his representative, is first notified and given reasonable opportunity to be present at the receiving post office to survey the mail before the postmaster returns the mail to the sender;

(2) forbids the payment by a postmaster to the person or his representative of any money order or postal note drawn to the order of either and provides for the return to the remitter of the sum named in the money order or postal note; and

(3) requires the person or his representative to cease and desist from engaging in any such scheme, device, lottery, or gift enterprise.

For purposes of the preceding sentence, the mailing of matter which is nonmailable under such section 3001(d), (h), (i), (j), or (k) by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations.

(b) The public advertisement by a person engaged in activities covered by subsection (a) of this section, that remittances may be made by mail to a person named in the advertisement, is prima facie evidence that the latter is the agent or representative of the advertiser for the receipt of remittances on behalf of the advertiser. The Postal Service may ascertain the existence of the agency in any other legal way satisfactory to it.

(c) As used in this section, the term ''representative'' includes an agent or representative acting as an individual or as a firm, bank, corporation, or association of any kind.

(d) Nothing in this section shall prohibit the mailing of (1) publications containing advertisements, lists of prizes, or information concerning a lottery, which are exempt, pursuant to section 1307 of title 18 of the United States Code, from the provisions of sections 1301, 1302, 1303, and 1304 of title 18 of the United States Code, (2) tickets or other materials concerning such a lottery within that State to addresses within that State, or (3) an advertisement promoting the sale of a book or other publication, or a solicitation to purchase, or a purchase order for any such publication, if (A) such advertisement, solicitation, or purchase order is not materially false or misleading in its description of the publication; (B) such advertisement, solicitation, or purchase order contains no material misrepresentation of fact: *Provided, however*, That no statement quoted or derived from the publication shall constitute a misrepresentation of fact as long as such statement complies with the requirements of subparagraphs (A) and (C); and (C) the advertisement, solicitation, or purchase order accurately discloses the source of any statements quoted or derived from the publication. Paragraph (3) shall not be applicable to any publication, advertisement, solicitation, or purchase order which is used to sell some other product in which the publisher or author has a financial interest as part of a commercial scheme. For the purposes of this subsection, ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(e)(1) In conducting an investigation to determine if a person is engaged in any of the activities covered by subsection (a) of this section, the Postmaster General (or any duly authorized agent of the Postmaster General) may tender, at any reasonable time and by any reasonable means, the price advertised or otherwise requested for any article or service that such person has offered to provide through the mails.

(2) A failure to provide the article or service offered after the Postmaster General or his agent has tendered the price advertised or otherwise requested in the manner described in paragraph (1) of this subsection, and any reasons for such failure, may be considered in a proceeding held under section 3007 of this title to determine if there is probable cause to believe that a violation of this section has occurred.

(3) The Postmaster General shall prescribe regulations under which any individual seeking to make a purchase on behalf of the Postal Service under this subsection from any person shall—

(A) identify himself as an employee or authorized agent of the Postal Service, as the case may be;

(B) state the nature of the conduct under investigation; and

(C) inform such person that the failure to complete the transaction may be considered in a proceeding under section 3007 of this title to determine probable cause, in accordance with paragraph (2) of this subsection.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 747; Pub. L. 93–583, § 4, Jan. 2, 1975, 88 Stat. 1916; Pub. L. 94–525, § 2, Oct. 17, 1976, 90 Stat. 2478; Pub. L. 95–360, Sept. 9, 1978, 92 Stat. 594; Pub. L. 98–186, § 2, Nov. 30, 1983, 97 Stat. 1315; Pub. L. 100–625, § 2(c), Nov. 7, 1988, 102 Stat. 3205; Pub. L. 101–524, § 2(b), Nov. 6, 1990, 104 Stat. 2302; Pub. L. 102–71, § 2(2), July 10, 1991, 105 Stat. 330; Pub. L. 106–168, title I, §§ 104, 105(b)(2)(A), Dec. 12, 1999, 113 Stat. 1810, 1811; Pub. L. 109–435, title X, § 1010(g)(3), Dec. 20, 2006, 120 Stat. 3262.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–435 substituted ''under section 3001(d),'' for ''under 3001(d),'' in introductory provisions and ''under such section 3001(d),'' for ''under such 3001(d),'' in concluding provisions.

1999—Subsec. (a). Pub. L. 106–168, § 104, in two places, struck out ''or'' after ''(h),'' and inserted '', (j), or (k)'' after ''(i)''.

Subsec. (c). Pub. L. 106–168, § 105(b)(2)(A), substituted ''section,'' for ''section and section 3006 of this title,''.

1991—Subsec. (a). Pub. L. 102–71 substituted ''3001(d), (h), or (i)'' for ''section 3001(d), (f), or (g)'' in two places.

1990—Subsec. (a). Pub. L. 101–524 substituted ''section 3001(d), (f), or (g)'' for ''section 3001(d)'' in two places.

1988—Subsec. (d)(1). Pub. L. 100–625 amended cl. (1) generally. Prior to amendment, cl. (1) read as follows: ''a newspaper of general circulation containing advertisements, lists of prizes, or information concerning a lottery conducted by a State acting under authority of State law, published in that State, or in an adjacent State which conducts such a lottery,''.

1983—Subsec. (a)(3). Pub. L. 98–186, § 2(a), added par. (3).

Subsec. (d). Pub. L. 98–186, § 2(b), struck out ''or'' before ''(2)'', inserted ''or'' before ''(3)'', and inserted cl. (3) and provision relating to applicability of cl. (3).

Subsec. (e). Pub. L. 98–186, § 2(c), added subsec. (e).

1978—Subsec. (a). Pub. L. 95–360 inserted provisions relating to nonmailable matter under section 3001(d) of this title.

1976—Subsec. (d). Pub. L. 94–525 substituted ''a newspaper of general circulation containing advertisements, lists of prizes, or information concerning a lottery conducted by a State acting under authority of State law, published in that State, or in an adjacent State which conducts such a lottery,'' for ''a newspaper of general circulation published in a State containing advertisements, lists of prizes, or information concerning a lottery conducted by that State acting under authority of State law,''.

1975—Subsec. (d). Pub. L. 93–583 added subsec. (d).

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–168 effective 120 days after Dec. 12, 1999, see section 111 of Pub. L. 106–168, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–524 effective Nov. 6, 1990, and applicable to matter deposited for mailing and delivery on or after 180 days after Nov. 6, 1990, see section 6 of Pub. L. 101–524, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–625 effective 18 months after Nov. 7, 1988, see section 5 of Pub. L. 100–625, set out as a note under section 1304 of Title 18, Crimes and Criminal Procedure.

CONSUMER EDUCATION PROGRAM ON SCHEMES INVOLVING FALSE REPRESENTATIONS

Section 4 of Pub. L. 98–186, as amended by Pub. L. 104–66, title II, § 2211(a), Dec. 21, 1995, 109 Stat. 732, provided that:

''(a) As soon as practicable after the date of enactment of this Act [Nov. 30, 1983], the Postmaster General or his designee, following consultation with representatives of the mail order industry, shall develop and

carry out a program designed to provide consumer education to the public on schemes involving false representations through use of the mails, including the dissemination of information on recognizing practices commonly associated with such schemes, as well as appropriate measures which an individual may take upon receiving mail matter which the individual believes may be part of such a scheme.

''(b) A summary of the activities carried out under subsection (a) shall be included in the first semiannual report submitted each year as required under section 5 of the Inspector General Act of 1978 (5 U.S.C. App.).''

[§ 3006. Repealed. Pub. L. 106–168, title I, § 105(b)(1), Dec. 12, 1999, 113 Stat. 1811]

Section, Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 747, prohibited persons from obtaining or attempting to obtain remittances of money or property of any kind through the mail for an obscene, lewd, lascivious, indecent, filthy, or vile thing.

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days after Dec. 12, 1999, see section 111 of Pub. L. 106–168, set out as an Effective Date of 1999 Amendment note under section 3001 of this title.

§ 3007. Detention of mail for temporary periods

(a)(1) In preparation for or during the pendency of proceedings under section 3005, the Postal Service may, under the provisions of section 409(d), apply to the district court in any district in which mail is sent or received as part of the alleged scheme, device, lottery, gift enterprise, sweepstakes, skill contest, or facsimile check or in any district in which the defendant is found, for a temporary restraining order and preliminary injunction under the procedural requirements of rule 65 of the Federal Rules of Civil Procedure.

(2)(A) Upon a proper showing, the court shall enter an order which shall—

(i) remain in effect during the pendency of the statutory proceedings, any judicial review of such proceedings, or any action to enforce orders issued under the proceedings; and

(ii) direct the detention by the postmaster, in any and all districts, of the defendant's incoming mail and outgoing mail, which is the subject of the proceedings under section 3005.

(B) A proper showing under this paragraph shall require proof of a likelihood of success on the merits of the proceedings under section 3005.

(3) Mail detained under paragraph (2) shall—

(A) be made available at the post office of mailing or delivery for examination by the defendant in the presence of a postal employee; and

(B) be delivered as addressed if such mail is not clearly shown to be the subject of proceedings under section 3005.

(4) No finding of the defendant's intent to make a false representation or to conduct a lottery is required to support the issuance of an order under this section.

(b) If any order is issued under subsection (a) and the proceedings under section 3005 are concluded with the issuance of an order under that section, any judicial review of the matter shall be in the district in which the order under subsection (a) was issued.

(c) This section does not apply to mail addressed to publishers of newspapers and other periodical publications entitled to a periodical publication rate or to mail addressed to the agents of those publishers.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 747; Pub. L. 106–168, title I, § 105(a), Dec. 12, 1999, 113 Stat. 1810.)

REFERENCES IN TEXT

Rule 65 of the Federal Rules of Civil Procedure, referred to in subsec. (a)(1), is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1999—Pub. L. 106–168 added subsecs. (a) and (b), struck out former subsec. (a) which provided for injunctive relief and other orders by the district court in which the defendant gets his mail, and redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–168 effective 120 days after Dec. 12, 1999, see section 111 of Pub. L. 106–168, set out as a note under section 3001 of this title.

§ 3008. Prohibition of pandering advertisements

(a) Whoever for himself, or by his agents or assigns, mails or causes to be mailed any pandering advertisement which offers for sale matter which the addressee in his sole discretion believes to be erotically arousing or sexually provocative shall be subject to an order of the Postal Service to refrain from further mailings of such materials to designated addresses thereof.

(b) Upon receipt of notice from an addressee that he has received such mail matter, determined by the addressee in his sole discretion to be of the character described in subsection (a) of this section, the Postal Service shall issue an order, if requested by the addressee, to the sender thereof, directing the sender and his agents or assigns to refrain from further mailings to the named addressees.

(c) The order of the Postal Service shall expressly prohibit the sender and his agents or assigns from making any further mailings to the designated addresses, effective on the thirtieth calendar day after receipt of the order. The order shall also direct the sender and his agents or assigns to delete immediately the names of the designated addressees from all mailing lists owned or controlled by the sender or his agents or assigns and, further, shall prohibit the sender and his agents or assigns from the sale, rental, exchange, or other transaction involving mailing lists bearing the names of the designated addressees.

(d) Whenever the Postal Service believes that the sender or anyone acting on his behalf has violated or is violating the order given under this section, it shall serve upon the sender, by registered or certified mail, a complaint stating the reasons for its belief and request that any response thereto be filed in writing with the Postal Service within 15 days after the date of such service. If the Postal Service, after appropriate hearing if requested by the sender, and without a hearing if such a hearing is not requested, thereafter determines that the order given has been or is being violated, it is authorized to request the Attorney General to make application, and the Attorney General is author-

ized to make application, to a district court of the United States for an order directing compliance with such notice.

(e) Any district court of the United States within the jurisdiction of which any mail matter shall have been sent or received in violation of the order provided for by this section shall have jurisdiction, upon application by the Attorney General, to issue an order commanding compliance with such notice. Failure to observe such order may be punishable by the court as contempt thereof.

(f) Receipt of mail matter 30 days or more after the effective date of the order provided for by this section shall create a rebuttable presumption that such mail was sent after such effective date.

(g) Upon request of any addressee, the order of the Postal Service shall include the names of any of his minor children who have not attained their nineteenth birthday, and who reside with the addressee.

(h) The provisions of subchapter II of chapter 5, relating to administrative procedure, and chapter 7, relating to judicial review, of title 5, shall not apply to any provisions of this section.

(i) For purposes of this section—

(1) mail matter, directed to a specific address covered in the order of the Postal Service, without designation of a specific addressee thereon, shall be considered as addressed to the person named in the Postal Service's order; and

(2) the term ''children'' includes natural children, stepchildren, adopted children, and children who are wards of or in custody of the addressee or who are living with such addressee in a regular parent-child relationship.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 748.)

§ 3009. Mailing of unordered merchandise

(a) Except for (1) free samples clearly and conspicuously marked as such, and (2) merchandise mailed by a charitable organization soliciting contributions, the mailing of unordered merchandise or of communications prohibited by subsection (c) of this section constitutes an unfair method of competition and an unfair trade practice in violation of section 45(a)(1) of title 15.

(b) Any merchandise mailed in violation of subsection (a) of this section, or within the exceptions contained therein, may be treated as a gift by the recipient, who shall have the right to retain, use, discard, or dispose of it in any manner he sees fit without any obligation whatsoever to the sender. All such merchandise shall have attached to it a clear and conspicuous statement informing the recipient that he may treat the merchandise as a gift to him and has the right to retain, use, discard, or dispose of it in any manner he sees fit without any obligation whatsoever to the sender.

(c) No mailer of any merchandise mailed in violation of subsection (a) of this section, or within the exceptions contained therein, shall mail to any recipient of such merchandise a bill for such merchandise or any dunning communications.

(d) For the purposes of this section, ''unordered merchandise'' means merchandise mailed without the prior expressed request or consent of the recipient.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 749.)

§ 3010. Mailing of sexually oriented advertisements

(a) Any person who mails or causes to be mailed any sexually oriented advertisement shall place on the envelope or cover thereof his name and address as the sender thereof and such mark or notice as the Postal Service may prescribe.

(b) Any person, on his own behalf or on the behalf of any of his children who has not attained the age of 19 years and who resides with him or is under his care, custody, or supervision, may file with the Postal Service a statement, in such form and manner as the Postal Service may prescribe, that he desires to receive no sexually oriented advertisements through the mails. The Postal Service shall maintain and keep current, insofar as practicable, a list of the names and addresses of such persons and shall make the list (including portions thereof or changes therein) available to any person, upon such reasonable terms and conditions as it may prescribe, including the payment of such service charge as it determines to be necessary to defray the cost of compiling and maintaining the list and making it available as provided in this sentence. No person shall mail or cause to be mailed any sexually oriented advertisement to any individual whose name and address has been on the list for more than 30 days.

(c) No person shall sell, lease, lend, exchange, or license the use of, or, except for the purpose expressly authorized by this section, use any mailing list compiled in whole or in part from the list maintained by the Postal Service pursuant to this section.

(d) ''Sexually oriented advertisement'' means any advertisement that depicts, in actual or simulated form, or explicitly describes, in a predominantly sexual context, human genitalia, any act of natural or unnatural sexual intercourse, any act of sadism or masochism, or any other erotic subject directly related to the foregoing. Material otherwise within the definition of this subsection shall be deemed not to constitute a sexually oriented advertisement if it constitutes only a small and insignificant part of the whole of a single catalog, book, periodical, or other work the remainder of which is not primarily devoted to sexual matters.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 749.)

EFFECTIVE DATE

Section effective first day of sixth month which begins after Aug. 12, 1970, see section 15(b) of Pub. L. 91–375, set out as a note preceding section 101 of this title.

INVASION OF PRIVACY BY MAILING OF SEXUALLY ORIENTED ADVERTISEMENTS

Section 14 of Pub. L. 91–375 provided that:

''(a) [*Congressional findings*] The Congress finds—

''(1) that the United States mails are being used for the indiscriminate dissemination of advertising matter so designed and so presented as to exploit sexual sensationalism for commercial gain;

''(2) that such matter is profoundly shocking and offensive to many persons who receive it, unsolicited, through the mails;

''(3) that such use of the mails constitutes a serious threat to the dignity and sanctity of the American home and subjects many persons to an unconscionable and unwarranted intrusion upon their fundamental personal right to privacy;

''(4) that such use of the mail reduces the ability of responsible parents to protect their minor children from exposure to material which they as parents believe to be harmful to the normal and healthy ethical, mental, and social development of their children; and

''(5) that the traffic in such offensive advertisements is so large that individual citizens will be helpless to protect their privacy or their families without stronger and more effective Federal controls over the mailing of such matter.

''(b) [*Congressional Determination of Public Policy*] On the basis of such findings, the Congress determines that it is contrary to the public policy of the United States for the facilities and services of the United States Postal Service to be used for the distribution of such materials to persons who do not want their privacy invaded in this manner or to persons who wish to protect their minor children from exposure to such material.''

Provisions of section 14 of Pub. L. 91–375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors and published by it in the Federal Register, see section 15(a) of Pub. L. 91–375, set out as an Effective Date not preceding section 101 of this title.

§ 3011. Judicial enforcement

(a) Whenever the Postal Service believes that any person is mailing or causing to be mailed any sexually oriented advertisement in violation of section 3010 of this title, it may request the Attorney General to commence a civil action against such person in a district court of the United States. Upon a finding by the court of a violation of that section, the court may issue an order including one or more of the following provisions as the court deems just under the circumstances:

(1) a direction to the defendant to refrain from mailing any sexually oriented advertisement to a specific addressee, to any group of addressees, or to all persons;

(2) a direction to any postmaster to whom sexually oriented advertisements originating with such defendant are tendered for transmission through the mails to refuse to accept such advertisements for mailing; or

(3) a direction to any postmaster at the office at which registered or certified letters or other letters or mail arrive, addressed to the defendant or his representative, to return the registered or certified letters or other letters or mail to the sender appropriately marked as being in response to mail in violation of section 3010 of this title, after the defendant, or his representative, has been notified and given reasonable opportunity to examine such letters or mail and to obtain delivery of mail which is clearly not connected with activity alleged to be in violation of section 3010 of this title.

(b) The statement that remittances may be made to a person named in a sexually oriented advertisement is prima facie evidence that such named person is the principal, agent, or representative of the mailer for the receipt of remittances on his behalf. The court is not precluded from ascertaining the existence of the agency on the basis of any other evidence.

(c) In preparation for, or during the pendency of, a civil action under subsection (a) of this section, a district court of the United States, upon application therefor by the Attorney General and upon a showing of probable cause to believe the statute is being violated, may enter a temporary restraining order or preliminary injunction containing such terms as the court deems just, including, but not limited to, provisions enjoining the defendant from mailing any sexually oriented advertisement to any person or class of persons, directing any postmaster to refuse to accept such defendant's sexually oriented advertisements for mailing, and directing the detention of the defendant's incoming mail by any postmaster pending the conclusion of the judicial proceedings. Any action taken by a court under this subsection does not affect or determine any fact at issue in any other proceeding under this section.

(d) A civil action under this section may be brought in the judicial district in which the defendant resides, or has his principal place of business, or in any judicial district in which any sexually oriented advertisement mailed in violation of section 3010 has been delivered by mail according to the direction thereon.

(e) Nothing in this section or in section 3010 shall be construed as amending, preempting, limiting, modifying, or otherwise in any way affecting section 1461 or 1463 of title 18 or section 3007 or 3008 of this title.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 750; Pub. L. 106–168, title I, § 105(b)(2)(B), Dec. 12, 1999, 113 Stat. 1811.)

AMENDMENTS

1999—Subsec. (e). Pub. L. 106–168 substituted ''3007'' for ''3006, 3007,''.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–168 effective 120 days after Dec. 12, 1999, see section 111 of Pub. L. 106–168, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective first day of sixth month which begins after Aug. 12, 1970, see section 15(b) of Pub. L. 91–375, set out as a note preceding section 101 of this title.

§ 3012. Civil penalties

(a) Any person—

(1) who, through the use of the mail, evades or attempts to evade the effect of an order issued under section 3005(a)(1) or 3005(a)(2) of this title;

(2) who fails to comply with an order issued under section 3005(a)(3) of this title; or

(3) who (other than a publisher described by section 3007(b) of this title) has actual knowledge of any such order, is in privity with any person described by paragraph (1) or (2) of this subsection, and engages in conduct to assist any such person to evade, attempt to evade, or fail to comply with any such order, as the case may be, through the use of the mail;

shall be liable to the United States for a civil penalty in an amount not to exceed $50,000 for each mailing of less than 50,000 pieces; $100,000 for each mailing of 50,000 to 100,000 pieces; with

an additional $10,000 for each additional 10,000 pieces above 100,000, not to exceed $2,000,000. A separate penalty may be assessed under this subsection with respect to the conduct described in each such paragraph.

(b)(1) Whenever, on the basis of any information available to it, the Postal Service finds that any person has engaged, or is engaging, in conduct described by paragraph (1), (2), or (3) of subsection (a), (c), or (d), the Postal Service may, under the provisions of section 409(d) of this title, commence a civil action to enforce the civil penalties established by such subsection. Any such action shall be brought in the district court of the United States for the district in which the defendant resides or receives mail.

(2) If the district court determines that a person has engaged, or is engaging, in conduct described by paragraph (1), (2), or (3) of subsection (a), (c), or (d), the court shall determine the civil penalty, if any under this section, taking into account the nature, circumstances, extent, and gravity of the violation or violations of such subsection, and, with respect to the violator, the ability to pay the penalty, the effect of the penalty on the ability of the violator to conduct lawful business, any history of prior violations of such subsection, the degree of culpability, and such other matters as justice may require.

(c)(1) In any proceeding in which the Postal Service may issue an order under section 3005(a), the Postal Service may in lieu of that order or as part of that order assess civil penalties in an amount not to exceed $25,000 for each mailing of less than 50,000 pieces; $50,000 for each mailing of 50,000 to 100,000 pieces; with an additional $5,000 for each additional 10,000 pieces above 100,000, not to exceed $1,000,000.

(2) In any proceeding in which the Postal Service assesses penalties under this subsection the Postal Service shall determine the civil penalty taking into account the nature, circumstances, extent, and gravity of the violation or violations of section 3005(a), and with respect to the violator, the ability to pay the penalty, the effect of the penalty on the ability of the violator to conduct lawful business, any history of prior violations of such section, the degree of culpability and other such matters as justice may require.

(d) Any person who violates section 3001(*l*) shall be liable to the United States for a civil penalty not to exceed $10,000 for each mailing to an individual.

(e) All penalties collected under authority of this section shall be paid into the Treasury of the United States.

(f) In any proceeding at any time under this section, the defendant shall be entitled as a defense or counterclaim to seek judicial review, if not already had, pursuant to chapter 7 of title 5, of the order issued under section 3005 of this title. However, nothing in this section shall be construed to preclude independent judicial review otherwise available pursuant to chapter 7 of title 5 of an order issued under section 3005 of this title.

(Added Pub. L. 98–186, § 3(a), Nov. 30, 1983, 97 Stat. 1316; amended Pub. L. 106–168, title I, § 106, Dec. 12, 1999, 113 Stat. 1811.)

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–168, § 106(1), in concluding provisions, substituted ''$50,000 for each mailing of less than 50,000 pieces; $100,000 for each mailing of 50,000 to 100,000 pieces; with an additional $10,000 for each additional 10,000 pieces above 100,000, not to exceed $2,000,000'' for ''$10,000 for each day that such person engages in conduct described by paragraph (1), (2), or (3) of this subsection''.

Subsec. (b)(1), (2). Pub. L. 106–168, § 106(2), inserted '', (c), or (d)'' after ''of subsection (a)''.

Subsecs. (c) to (f). Pub. L. 106–168, § 106(3), (4), added subsecs. (c) and (d) and redesignated former subsecs. (c) and (d) as (e) and (f), respectively.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–168 effective 120 days after Dec. 12, 1999, see section 111 of Pub. L. 106–168, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section 3(b) of Pub. L. 98–186 provided that: ''Section 3012 of title 39, United States Code (as added by subsection (a) of this section) shall apply with respect to conduct which occurs on or after the date of the enactment of this Act [Nov. 30, 1983].''

§ 3013. Semiannual reports on investigative activities of the Postal Service

The Postmaster General shall submit semiannual reports to the Inspector General summarizing the investigative activities of the Postal Service. One semiannual report shall be submitted for the reporting period beginning on October 1 and ending on March 31, and the other semiannual report shall be submitted for the reporting period beginning on April 1 and ending on September 30. Each such report shall be submitted within 1 month (or such shorter length of time as the Inspector General may specify) after the close of the reporting period involved and shall include with respect to such reporting period—

(1) a summary of any proceedings instituted under section 3005 of this title, and the results of those and of any other such proceedings decided, settled, or otherwise concluded during such period;

(2) the number of cases in which the authority described in section 3005(e) of this title was used;

(3) the number of applications for temporary restraining orders or preliminary injunctions submitted under section 3007 of this title and, of those applications, the number granted;

(4) the total amount of expenditures and obligations incurred in carrying out the investigative activities of the Postal Service;

(5) the number of cases in which the authority described in section 3016 was used, and a comprehensive statement describing how that authority was used in each of those cases; and

(6) such other information relating to the investigative activities of the Postal Service as the Inspector General may require.

The information in a report submitted under this section to the Inspector General with respect to a reporting period shall be included as part of the semiannual report prepared by the Inspector General under section 5 of the Inspector General Act of 1978 for the same reporting period. Nothing in this section shall be consid-

ered to permit or require that any report by the Postmaster General under this section include any information relating to activities of the Inspector General.

(Added Pub. L. 98–186, § 3(a), Nov. 30, 1983, 97 Stat. 1317; amended Pub. L. 104–66, title II, § 2211(b), Dec. 21, 1995, 109 Stat. 733; Pub. L. 106–168, title I, §§ 107(c), 110(b)(1), Dec. 12, 1999, 113 Stat. 1813, 1817.)

REFERENCES IN TEXT

Section 5 of the Inspector General Act of 1978, referred to in text, is section 5 of Pub. L. 95–452, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1999—Pub. L. 106–168, § 110(b)(1), in introductory provisions, substituted ''Inspector General'' for ''Board'' and ''1 month (or such shorter length of time as the Inspector General may specify)'' for ''sixty days'' and substituted concluding provisions for former concluding provisions which read as follows: ''Upon approval of a report submitted under the first sentence of this section, the information in such report shall be included in the next semiannual report required under section 5 of the Inspector General Act of 1978 (5 U.S.C. App.).''

Par. (5). Pub. L. 106–168, § 107(c), added par. (5). Former par. (5) redesignated (6).

Par. (6). Pub. L. 106–168, § 110(b)(1)(A), substituted ''Inspector General'' for ''Board''.

Pub. L. 106–168, § 107(c), redesignated par. (5) as (6).

1995—Pub. L. 104–66 substituted at end ''the information in such report shall be included in the next semiannual report required under section 5 of the Inspector General Act of 1978 (5 U.S.C. App.)'' for ''the Board shall transmit such report to the Congress''.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by section 107(c) of Pub. L. 106–168 effective 120 days after Dec. 12, 1999, see section 111 of Pub. L. 106–168, set out as a note under section 3001 of this title.

Pub. L. 106–168, title I, § 110(b)(2), (3), Dec. 12, 1999, 113 Stat. 1817, provided that:

''(2) EFFECTIVE DATE.—This subsection [amending this section] shall take effect on the date of the enactment of this Act [Dec. 12, 1999], and the amendments made by this subsection shall apply with respect to semiannual reporting periods beginning on or after such date of enactment.

''(3) SAVINGS PROVISION.—For purposes of any semiannual reporting period preceding the first semiannual reporting period referred to in paragraph (2), the provisions of title 39, United States Code, shall continue to apply as if the amendments made by this subsection had not been enacted.''

§ 3014. Nonmailable plants

(a)(1) Whenever the Secretary of Agriculture establishes a quarantine under section 8 of the Plant Quarantine Act, prohibiting the transportation by common carrier of any plant from any State or other geographic area, the Secretary shall give notice of the establishment of such quarantine to the Postal Service in writing.

(2) Upon receiving any such notice under paragraph (1), the Postal Service shall ensure that copies of such notice are prominently displayed at post offices located within each State or area covered by the quarantine, and shall take any other measures which the Postal Service considers necessary in order to inform the public both of the establishment of such quarantine and of relevant provisions of this section and sections 1716B and 1716C of title 18 in connection therewith.

(b) Any plant, the transportation of which by common carrier from any State or other area is prohibited or restricted under any quarantine referred to in subsection (a), is nonmailable matter, and may not be accepted by the Postal Service or conveyed in the mails, if the matter involved is tendered for transmission through the mails from such State or area or if such matter first enters the mails within such State or area.

(c) The Postal Service shall, after consultation with the Secretary of Agriculture, prescribe rules and regulations permitting the mailing of a plant, and otherwise making subsection (b) of this section inapplicable with respect to such plant, if the method or manner of mailing such plant would be consistent with the procedures set forth in the rules and regulations prescribed under the fourth sentence of section 8 of the Plant Quarantine Act (relating to the inspection, disinfection, and certification of, and other conditions for, the delivery and shipment of plants otherwise subject to quarantine).

(d) For the purposes of this section—

(1) ''Plant Quarantine Act'' means the Act entitled ''An Act to regulate the importation of nursery stock and other plants and plant products; to enable the Secretary of Agriculture to establish and maintain quarantine districts for plant diseases and insect pests; to permit and regulate the movement of fruits, plants, and vegetables therefrom, and for other purposes'', enacted August 20, 1912[1] (37 Stat. 315 et seq.); and

(2) ''plant'' means any class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, any class of nursery stock (as defined by section 6 of the Plant Quarantine Act),[1] and any other article or matter which is capable of carrying any dangerous plant disease or pest.

(Added Pub. L. 100–574, § 1(a)(1), Oct. 31, 1988, 102 Stat. 2892.)

REFERENCES IN TEXT

The Act of Aug. 20, 1912, referred to in subsec. (d), is act Aug. 20, 1912, ch. 308, 37 Stat. 315, as amended, which was classified generally to chapter 8 (§ 151 et seq.) of Title 7, Agriculture, prior to repeal by Pub. L. 106–224, title IV, § 438(a)(1), June 20, 2000, 114 Stat. 454. Sections 6 and 8 of the Act were classified to sections 152 and 161, respectively, of Title 7. For complete classification of this Act to the Code, see Tables.

EFFECTIVE DATE

Section 4 of Pub. L. 100–574 provided that:

''(a) IN GENERAL.—This Act and the amendments made by this Act [enacting this section and sections 1716B and 1716C of Title 18, Crimes and Criminal Procedure] shall become effective on the earlier of—

''(1) the 366th day after the date of the enactment of this Act [Oct. 31, 1988]; or

''(2) the first date as of which all rules and regulations required to be prescribed under the amendments made by this Act have first been published in the Federal Register. [For publication of regulations, see 54 F.R. 49978, Dec. 4, 1989.]

''(b) REGULATIONS.—Nothing in this section shall prevent the United States Postal Service from taking any

[1] See References in Text note below.

action which may be necessary to prepare and issue, as soon as possible after the date of the enactment of this Act, any rules and regulations which the Postal Service is required to prescribe under any of the amendments made by this Act.''

§ 3015. Nonmailable plant pests and injurious animals

(a) INJURIOUS ANIMALS.—Any injurious animal, the importation or interstate shipment of which is prohibited pursuant to section 42 of title 18, constitutes nonmailable matter.

(b) PLANT PESTS.—Any plant pest, the movement of which is prohibited pursuant to section 103 or 104 of the Federal Plant Pest Act (7 U.S.C. 150bb or 150cc),[1] constitutes nonmailable matter.

(c) PLANTS.—Any plant, article, or matter, the importation or interstate shipment of which is prohibited pursuant to the Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.) (commonly known as the ''Plant Quarantine Act''),[1] constitutes nonmailable matter.

(d) ILLEGALLY TAKEN FISH, WILDLIFE, OR PLANTS.—Any fish, wildlife, or plant, the conveyance of which is prohibited pursuant to section 3 of the Lacey Act Amendments of 1981 (16 U.S.C. 3372), constitutes nonmailable matter.

(Added Pub. L. 102–393, title VI, § 631(d)(1), Oct. 6, 1992, 106 Stat. 1776.)

REFERENCES IN TEXT

Sections 103 and 104 of the Federal Plant Pest Act (7 U.S.C. 150bb, 150cc), referred to in subsec. (b), were repealed by Pub. L. 106–224, title IV, § 438(a)(2), June 20, 2000, 114 Stat. 454.

The Plant Quarantine Act, referred to in subsec. (c), is act Aug. 20, 1912, ch. 308, 37 Stat. 315, as amended, which was classified generally to chapter 8 (§ 151 et seq.) of Title 7, Agriculture, prior to repeal by Pub. L. 106–224, title IV, § 438(a)(1), June 20, 2000, 114 Stat. 454. For complete classification of this Act to the Code, see Tables.

SHORT TITLE

Section 631(e) of Pub. L. 102–393 provided that: ''This section [enacting this section and provisions set out below] may be cited as the 'Alien Species Prevention and Enforcement Act of 1992'.''

ALIEN SPECIES PREVENTION AND ENFORCEMENT IN HAWAII

Section 631(a)–(c) of Pub. L. 102–393 provided that:

''(a) PESTS IN THE MAILS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture shall hereafter operate a program, under terms and conditions acceptable to the Postal Service, to protect Hawaii from the introduction of prohibited plants, plant pests, and injurious animals that may be contained in mail received in Hawaii, except that this subsection shall not apply to mail that originates and is intended for delivery outside the United States.

''(2) MEMORANDUM OF UNDERSTANDING.—For the purpose of carrying out the program operated under paragraph (1), the Secretary of Agriculture shall enter into a memorandum of understanding or other agreement with the Secretary of the Interior relating to prohibited plants, plant pests, or injurious animals under the jurisdiction of the Department of the Interior.

''(3) REMEDIAL ACTION.—If, pursuant to the program, mail is found to contain a prohibited plant, plant pest, or injurious animal, the Secretary shall—

''(A) make a record of the prohibited plant, plant pest, or injurious animal found in the mail;

''(B) take appropriate action to prevent the introduction of the prohibited material into Hawaii; and

''(C) determine whether the facts and circumstances warrant seeking prosecution under a law prohibiting the conveyance of a plant, plant pest, or injurious animal.

''(4) DEFINITIONS.—As used in this subsection:

''(A) INJURIOUS ANIMAL.—The term 'injurious animal' means an animal the importation or interstate shipment of which is prohibited by section 42 of title 18, United States Code.

''(B) PLANT.—The term 'plant' means a plant from any class of plants, or any other article or matter, the importation or interstate shipment of which is prohibited under the Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.) (commonly known as the 'Plant Quarantine Act').

''(C) PLANT PEST.—The term 'plant pest' means any organism or substance the importation or interstate shipment of which is prohibited under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.).

''(b) COOPERATIVE AGREEMENTS WITH HAWAII TO ENFORCE CERTAIN AGRICULTURAL QUARANTINE LAWS.—

''(1) AGREEMENT BETWEEN SECRETARY OF AGRICULTURE AND HAWAII.—

''(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Oct. 6, 1992], the Secretary of Agriculture shall offer to enter into a cooperative agreement with the State of Hawaii for a 2-year period to enforce in the State—

''(i) the Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.) (commonly known as the 'Plant Quarantine Act');

''(ii) the Federal Plant Pest Act (7 U.S.C. 150aa et seq.); and

''(iii) the matter under the heading 'ENFORCEMENT OF THE PLANT-QUARANTINE ACT:' of the Act of March 4, 1915 (38 Stat. 1113; 7 U.S.C. 166 [7760]) (commonly known as the 'Terminal Inspection Act').

''(B) INSPECTION OF PLANTS AND PLANT PRODUCTS.—The cooperative agreement shall establish a specific procedure for the submission and approval of the names of plants and plant products that the State of Hawaii elects to inspect under the provision of law referred to in subparagraph (A)(iii).

''(C) AUTHORITY.—The Secretary shall carry out this paragraph under the authority provided by—

''(i) section 102 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a);

''(ii) section 3 of the Act of May 29, 1884 (23 Stat. 32, chapter 60; 21 U.S.C. 114); and

''(iii) section 11 of the Department of Agriculture Organic Act of 1956 (7 U.S.C. 114a) [probably means section 11 of act May 29, 1884, as added by the Department of Agriculture Organic Act of 1944, which is classified to 21 U.S.C. 114a].

''(2) AGREEMENT BETWEEN SECRETARY OF THE INTERIOR AND HAWAII.—

''(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Oct. 6, 1992], the Secretary of the Interior shall offer to enter into a cooperative agreement with the State of Hawaii for a 2-year period to enforce in the State the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

''(B) AUTHORITY.—The Secretary shall use to carry out this paragraph the authority provided under section 3 of the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 742*l*).

''(3) AGREEMENT BETWEEN POSTAL SERVICE AND HAWAII.—

''(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Postal Service shall offer to enter into a cooperative agreement with the State of Hawaii for a 2-year period to enforce in the State, under terms and conditions acceptable to the Postal Service and in compliance with postal regulations, Public Law 100–574 [enact-

[1] See References in Text note below.

ing section 3014 of this title, sections 1716B and 1716C of Title 18, Crimes and Criminal Procedure, and provisions set out as a note under section 3014 of this title] and the amendments made by such Public Law.

''(B) AUTHORITY.—The Postal Service shall use to carry out this paragraph the authority provided under section 3014 of title 39, United States Code.

''(4) COOPERATIVE PROGRAMS.—Any program conducted jointly by the State of Hawaii and any Federal agency under this subsection that in any way affects the mail or the postal system of the United States shall comply with postal regulations and shall be conducted under terms and conditions acceptable to the Postal Service.

''(5) EXTENSION OF AGREEMENTS.—A cooperative agreement entered into under this subsection may be extended by mutual consent of the parties to the agreement.

''(c) PUBLIC INFORMATION PROGRAM ON PROHIBITIONS AGAINST SHIPMENT OR TRANSPORTATION OF PLANT PESTS AND INJURIOUS ANIMALS.—

''(1) IN GENERAL.—The Postal Service, the Secretary of the Interior, and the Secretary of Agriculture shall jointly establish a public information program to inform the public on—

''(A) the prohibitions against the shipment or transportation of plants, plants [sic] pests, and injurious animals; and

''(B) the consequences of violating Federal laws designed to prevent the introduction of alien species into the State of Hawaii and other areas of the United States.

''(2) METHODS.—In carrying out paragraph (1), the Postal Service and Secretaries may—

''(A) use public service announcements, mail, and other forms of distributing information, dial-up information services, and such other methods as will effectively communicate the information described in paragraph (1); and

''(B) cooperate with State and private organizations to carry out the program established under this subsection.

''(3) STUDY.—Not later than 1 year after the program established under subsection (a) commences, the Secretary of Agriculture, in cooperation with the Secretary of the Interior, the Postal Service, and the State of Hawaii, shall—

''(A) conduct a study to determine the proportion of plant pests and injurious animals that are introduced into Hawaii by various modes of commerce; and

''(B) report the results of the study to Congress.''

§ 3016. Administrative subpoenas

(a) SUBPOENA AUTHORITY.—

(1) INVESTIGATIONS.—

(A) IN GENERAL.—In any investigation conducted under section 3005(a), the Postmaster General may require by subpoena the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Postmaster General considers relevant or material to such investigation.

(B) CONDITION.—No subpoena shall be issued under this paragraph except in accordance with procedures, established by the Postal Service, requiring that—

(i) a specific case, with an individual or entity identified as the subject, be opened before a subpoena is requested;

(ii) appropriate supervisory and legal review of a subpoena request be performed; and

(iii) delegation of subpoena approval authority be limited to the Postal Service's General Counsel or a Deputy General Counsel.

(2) STATUTORY PROCEEDINGS.—In any statutory proceeding conducted under section 3005(a), the Judicial Officer may require by subpoena the attendance and testimony of witnesses and the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Judicial Officer considers relevant or material to such proceeding.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (2) shall be considered to apply in any circumstance to which paragraph (1) applies.

(b) SERVICE.—

(1) SERVICE WITHIN THE UNITED STATES.—A subpoena issued under this section may be served by a person designated under section 3061 of title 18 at any place within the territorial jurisdiction of any court of the United States.

(2) FOREIGN SERVICE.—Any such subpoena may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States may assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such court would have if such person were personally within the jurisdiction of such court.

(3) SERVICE ON BUSINESS PERSONS.—Service of any such subpoena may be made upon a partnership, corporation, association, or other legal entity by—

(A) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

(B) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity; or

(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

(4) SERVICE ON NATURAL PERSONS.—Service of any subpoena may be made upon any natural person by—

(A) delivering a duly executed copy to the person to be served; or

(B) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

(5) VERIFIED RETURN.—A verified return by the individual serving any such subpoena set-

ting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such subpoena.

(c) ENFORCEMENT.—

(1) IN GENERAL.—Whenever any person, partnership, corporation, association, or entity fails to comply with any subpoena duly served upon him, the Postmaster General may request that the Attorney General seek enforcement of the subpoena in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section.

(2) JURISDICTION.—Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section. Any final order entered shall be subject to appeal under section 1291 of title 28, United States Code. Any disobedience of any final order entered under this section by any court may be punished as contempt.

(d) DISCLOSURE.—Any documentary material provided pursuant to any subpoena issued under this section shall be exempt from disclosure under section 552 of title 5, United States Code.

(Added Pub. L. 106–168, title I, § 107(a), Dec. 12, 1999, 113 Stat. 1812.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section effective 120 days after Dec. 12, 1999, see section 111 of Pub. L. 106–168, set out as an Effective Date of 1999 Amendment note under section 3001 of this title.

REGULATIONS

Pub. L. 106–168, title I, § 107(b), Dec. 12, 1999, 113 Stat. 1813, provided that: ''Not later than 120 days after the date of the enactment of this section [Dec. 12, 1999], the Postal Service shall promulgate regulations setting out the procedures the Postal Service will use to implement the amendment made by subsection (a) [enacting this section].''

§ 3017. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings

(a) DEFINITIONS.—In this section—

(1) the term ''promoter'' means any person who—

(A) originates and mails any skill contest or sweepstakes, except for any matter described in section 3001(k)(4); or

(B) originates and causes to be mailed any skill contest or sweepstakes, except for any matter described in section 3001(k)(4);

(2) the term ''removal request'' means a request stating that an individual elects to have the name and address of such individual excluded from any list used by a promoter for mailing skill contests or sweepstakes;

(3) the terms ''skill contest'', ''sweepstakes'', and ''clearly and conspicuously displayed'' have the same meanings as given them in section 3001(k); and

(4) the term ''duly authorized person'', as used in connection with an individual, means a conservator or guardian of, or person granted power of attorney by, such individual.

(b) NONMAILABLE MATTER.—

(1) IN GENERAL.—Matter otherwise legally acceptable in the mails described in paragraph (2)—

(A) is nonmailable matter;

(B) shall not be carried or delivered by mail; and

(C) shall be disposed of as the Postal Service directs.

(2) NONMAILABLE MATTER DESCRIBED.—Matter described in this paragraph is any matter that—

(A) is a skill contest or sweepstakes, except for any matter described in section 3001(k)(4); and

(B)(i) is addressed to an individual who made an election to be excluded from lists under subsection (d); or

(ii) does not comply with subsection (c)(1).

(c) REQUIREMENTS OF PROMOTERS.—

(1) NOTICE TO INDIVIDUALS.—Any promoter who mails a skill contest or sweepstakes shall provide with each mailing a statement that—

(A) is clearly and conspicuously displayed;

(B) includes the address or toll-free telephone number of the notification system established under paragraph (2); and

(C) states that the notification system may be used to prohibit the mailing of all skill contests or sweepstakes by that promoter to such individual.

(2) NOTIFICATION SYSTEM.—Any promoter that mails or causes to be mailed a skill contest or sweepstakes shall establish and maintain a notification system that provides for any individual (or other duly authorized person) to notify the system of the individual's election to have the name and address of the individual excluded from all lists of names and addresses used by that promoter to mail any skill contest or sweepstakes.

(d) ELECTION TO BE EXCLUDED FROM LISTS.—

(1) IN GENERAL.—An individual (or other duly authorized person) may elect to exclude the name and address of that individual from all lists of names and addresses used by a promoter of skill contests or sweepstakes by submitting a removal request to the notification system established under subsection (c).

(2) RESPONSE AFTER SUBMITTING REMOVAL REQUEST TO THE NOTIFICATION SYSTEM.—Not later than 60 calendar days after a promoter receives a removal request pursuant to an election under paragraph (1), the promoter shall exclude the individual's name and address from all lists of names and addresses used by that promoter to select recipients for any skill contest or sweepstakes.

(3) EFFECTIVENESS OF ELECTION.—An election under paragraph (1) shall remain in effect, unless an individual (or other duly authorized

person) notifies the promoter in writing that such individual—

(A) has changed the election; and

(B) elects to receive skill contest or sweepstakes mailings from that promoter.

(e) PRIVATE RIGHT OF ACTION.—

(1) IN GENERAL.—An individual who receives one or more mailings in violation of subsection (d) may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

(A) an action to enjoin such violation;

(B) an action to recover for actual monetary loss from such a violation, or to receive $500 in damages for each such violation, whichever is greater; or

(C) both such actions.

It shall be an affirmative defense in any action brought under this subsection that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent mailings in violation of subsection (d). If the court finds that the defendant willfully or knowingly violated subsection (d), the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B).

(2) ACTION ALLOWABLE BASED ON OTHER SUFFICIENT NOTICE.—A mailing sent in violation of section 3001(*l*) shall be actionable under this subsection, but only if such an action would not also be available under paragraph (1) (as a violation of subsection (d)) based on the same mailing.

(f) PROMOTER NONLIABILITY.—A promoter shall not be subject to civil liability for the exclusion of an individual's name or address from any list maintained by that promoter for mailing skill contests or sweepstakes, if—

(1) a removal request is received by the promoter's notification system; and

(2) the promoter has a good faith belief that the request is from—

(A) the individual whose name and address is to be excluded; or

(B) another duly authorized person.

(g) PROHIBITION ON COMMERCIAL USE OF LISTS.—

(1) IN GENERAL.—

(A) PROHIBITION.—No person may provide any information (including the sale or rental of any name or address) derived from a list described in subparagraph (B) to another person for commercial use.

(B) LISTS.—A list referred to under subparagraph (A) is any list of names and addresses (or other related information) compiled from individuals who exercise an election under subsection (d).

(2) CIVIL PENALTY.—Any person who violates paragraph (1) shall be assessed a civil penalty by the Postal Service not to exceed $2,000,000 per violation.

(h) CIVIL PENALTIES.—

(1) IN GENERAL.—Any promoter—

(A) who recklessly mails nonmailable matter in violation of subsection (b) shall be liable to the United States in an amount of $10,000 per violation for each mailing to an individual of nonmailable matter; or

(B) who fails to comply with the requirements of subsection (c)(2) shall be liable to the United States.

(2) ENFORCEMENT.—The Postal Service shall, in accordance with the same procedures as set forth in section 3012(b), provide for the assessment of civil penalties under this section.

(Added Pub. L. 106–168, title I, § 108(a), Dec. 12, 1999, 113 Stat. 1814.)

EFFECTIVE DATE

Pub. L. 106–168, title I, § 108(c), Dec. 12, 1999, 113 Stat. 1816, provided that: ''This section [enacting this section] shall take effect 1 year after the date of the enactment of this Act [Dec. 12, 1999].''

§ 3018. Hazardous material

(a) IN GENERAL.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

(b) PROHIBITIONS.—No person may—

(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

(A) is represented, marked, certified, or sold by such person for use in the mailing of hazardous material; and

(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of hazardous material.

(c) CIVIL PENALTY; CLEAN-UP COSTS AND DAMAGES.—

(1) IN GENERAL.—A person who knowingly violates this section or a regulation prescribed under this section shall be liable for—

(A) a civil penalty of at least $250, but not more than $100,000, for each violation;

(B) the costs of any clean-up associated with each violation; and

(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

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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.)

REFERENCES IN TEXT

Section 403(1) of the Juvenile Justice and Delinquency Prevention Act of 1974, referred to in par. (6), is classified to section 5772(1) of Title 42, The Public Health and Welfare.

AMENDMENTS

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

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.

§ 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;

(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; and

(F) 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;

(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;

(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; and

(4) mail of State agriculture experiment stations pursuant to sections 325 and 361f of title 7.

(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.)

AMENDMENTS

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.

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.

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.

Similar provisions were contained in the following prior appropriation acts:

Jan. 11, 1971, Pub. L. 91–667, title I, 84 Stat. 2002.
Mar. 5, 1970, Pub. L. 91–204, title I, 84 Stat. 24.
Oct. 11, 1968, Pub. L. 90–557, title I, 82 Stat. 971.
Nov. 8, 1967, Pub. L. 90–132, title I, 81 Stat. 387.
Nov. 7, 1966, Pub. L. 89–787, title I, 80 Stat. 1379.
Aug. 31, 1965, Pub. L. 89–156, title I, 79 Stat. 590.
Sept. 19, 1964, Pub. L. 88–605, title I, 78 Stat. 960.
Oct. 11, 1963, Pub. L. 88–136, title I, 77 Stat. 226.
Aug. 14, 1962, Pub. L. 87–582, title I, 76 Stat. 363.
Sept. 22, 1961, Pub. L. 87–290, title I, 75 Stat. 591.
Sept. 2, 1960, Pub. L. 86–703, title I, 74 Stat. 757.
Aug. 14, 1959, Pub. L. 86–158, title I, 73 Stat. 341.
Aug. 1, 1958, Pub. L. 85–580, title I, 72 Stat. 459.
June 29, 1957, Pub. L. 85–67, title I, 71 Stat. 212.
June 29, 1956, ch. 477, title I, 70 Stat. 424.
Aug. 1, 1955, ch. 437, title I, 69 Stat. 398.
July 2, 1954, ch. 457, title I, 68 Stat. 435
July 31, 1953, ch. 296, title I, 67 Stat. 246.
July 5, 1952, ch. 575, title I, 66 Stat. 360.
Aug. 31, 1951, ch. 373, title I, 65 Stat. 210.
Sept. 6, 1950, ch. 896, ch. V, title I, 64 Stat. 644.
June 29, 1949, ch. 275, title II, 63 Stat. 293.
June 16, 1948, ch. 472, title I, 62 Stat. 445.

§ 3203. Endorsements on penalty covers

(a) Except as otherwise provided in this section, penalty covers shall bear, over the words ''Official Business'' an endorsement showing the name of the department, bureau, or office from which, or officer from whom, it is transmitted. The penalty for the unlawful use of all penalty covers shall be printed thereon.

(b) The Postal Service shall prescribe the endorsement to be placed on covers mailed under clauses (1)(E), (2), and (3) of section 3202(a) of this title.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 752.)

§ 3204. Restrictions on use of penalty mail

(a) Except as otherwise provided in this section or section 3220(a) of this title, an officer, executive department, or independent establishment of the Government of the United States may not mail, as penalty mail, any article or document unless—

(1) a request therefor has been previously received by the department or establishment; or

(2) its mailings is required by law.

(b) Subsection (a) of this section does not prohibit the mailing, as penalty mail, by an officer, executive department, or independent agency of—

(1) enclosures reasonably related to the subject matter of official correspondence;

(2) informational releases relating to the census of the United States and authorized by title 13;

(3) matter concerning the sale of Government securities;

(4) forms, blanks, and copies of statutes, rules, regulations, instructions, administrative orders, and interpretations necessary in the administration of the department or establishment;

(5) agricultural bulletins;

(6) lists of public documents offered for sale by the Superintendent of Documents;

(7) announcements of the publication of maps, atlases, and statistical and other reports offered for sale by the Federal Power Commission as authorized by section 825k of title 16; or

(8) articles or documents to educational institutions or public libraries, or to Federal, State, or other public authorities.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 752; Pub. L. 99–87, § 1(c)(1), Aug. 9, 1985, 99 Stat. 291.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–87 substituted ''section or section 3220(a) of this title,'' for ''section,'' in introductory provisions.

TRANSFER OF FUNCTIONS

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 3205. Accounting for penalty covers

Executive departments and agencies, independent establishments of the Government of the United States, and organizations and persons authorized by law to use penalty mail, shall account for all penalty covers through the Postal Service.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 753.)

§ 3206. Reimbursement for penalty mail service

(a) Except as provided in subsection (b) of this section, executive departments and agencies, independent establishments of the Government of the United States, and Government corporations concerned, shall transfer to the Postal Service as postal revenue out of any appropriations or funds available to them, as a necessary expense of the appropriations or funds and of the activities concerned, the equivalent amount of postage due, as determined by the Postal Service, for matter sent in the mails by or to them as penalty mail under authority of section 3202 of this title.

(b) The Department of Agriculture shall transfer to the Postal Service as postal revenues out of any appropriations made to it for that purpose the equivalent amount of postage, as determined by the Postal Service, for penalty mailings under clauses (1)(F) and (4) of section 3202(a) of this title.

(c) The Department of State shall transfer to the Postal Service as postal revenues out of any appropriations made to it for that purpose the equivalent amount of postage, as determined by the Postal Service, for penalty mailings under clause (1)(C) and (D) of section 3202(a) of this title.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 753; Pub. L. 93–191, § 9, Dec. 18, 1973, 87 Stat. 745; Pub. L. 94–553, § 105(e), Oct. 19, 1976, 90 Stat. 2599.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–553 substituted ''subsection (b)'' for ''subsections (b) and (c)''.

Subsecs. (c), (d). Pub. L. 94–553 redesignated subsec. (d) as (c). Former subsec. (c), directing the Library of Congress to transfer to the Postal Service as postal revenues out of any appropriations made to the Library for that purpose the equivalent amount of postage, as determined by the Postal Service, for penalty mailings under clause (5) of section 3202(a) of this title, was struck out.

1973—Subsec. (d). Pub. L. 93–191 added subsec. (d).

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 OF 1973 AMENDMENT

Amendment by Pub. L. 93–191 effective Dec. 18, 1973, see section 14 of Pub. L. 93–191, set out as a note under section 3210 of this title.

§ 3207. Limit of weight of penalty mail; postage on overweight matter

(a) Penalty mail is restricted to articles not in excess of the weight and size prescribed for that class of mail receiving high priority in handling and delivery, except—

(1) stamped paper and supplies sold or used by the Postal Service; and

(2) books and documents published or circulated by order of Congress when mailed by the Superintendent of Documents.

(b) A penalty mail article which is—

(1) over 4 pounds in weight;

(2) not in excess of the weight and size prescribed for mail matter; and

(3) otherwise mailable;

is mailable at rates for that class of mail entitled to the lowest priority in handling and delivery, even though it may include written matter and may be sealed.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 753.)

§ 3208. Shipment by most economical means

Shipments of official matter other than franked mail shall be sent by the most economical means of transportation practicable. The Postal Service may refuse to accept official matter for shipment by mail when in its judgment it may be shipped by other means at less expense, or it may provide for its transportation by freight or express whenever a saving to the Government of the United States will result therefrom without detriment to the public service.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 753.)

§ 3209. Executive departments to supply information

Persons and governmental organizations authorized to use penalty mail shall supply all information requested by the Postal Service necessary to carry out the provisions of this chapter as soon as practicable after request therefor.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 754.)

§ 3210. Franked mail transmitted by the Vice President, Members of Congress, and congressional officials

(a)(1) It is the policy of the Congress that the privilege of sending mail as franked mail shall be established under this section in order to assist and expedite the conduct of the official business, activities, and duties of the Congress of the United States.

(2) It is the intent of the Congress that such official business, activities, and duties cover all matters which directly or indirectly pertain to the legislative process or to any congressional representative functions generally, or to the functioning, working, or operating of the Congress and the performance of official duties in connection therewith, and shall include, but not be limited to, the conveying of information to the public, and the requesting of the views of the public, or the views and information of other authority of government, as a guide or a means of assistance in the performance of those functions.

(3) It is the intent of the Congress that mail matter which is frankable specifically includes, but is not limited to—

(A) mail matter to any person and to all agencies and officials of Federal, State, and local governments regarding programs, decisions, and other related matters of public concern or public service, including any matter relating to actions of a past or current Congress;

(B) the usual and customary congressional newsletter or press release which may deal with such matters as the impact of laws and decisions on State and local governments and individual citizens; reports on public and official actions taken by Members of Congress; and discussions of proposed or pending legislation or governmental actions and the positions of the Members of Congress on, and arguments for or against, such matters;

(C) the usual and customary congressional questionnaire seeking public opinion on any law, pending or proposed legislation, public issue, or subject;

(D) mail matter dispatched by a Member of Congress between his Washington office and any congressional district offices, or between his district offices;

(E) mail matter directed by one Member of Congress to another Member of Congress or to representatives of the legislative bodies of State and local governments;

(F) mail matter expressing congratulations to a person who has achieved some public distinction;

(G) mail matter, including general mass mailings, which consists of Federal laws, Federal regulations, other Federal publications, publications purchased with Federal funds, or publications containing items of general information;

(H) mail matter which consists of voter registration or election information or assistance prepared and mailed in a nonpartisan manner;

(I) mail matter which constitutes or includes a biography or autobiography of any Member of, or Member-elect to, Congress or any biographical or autobiographical material concerning such Member or Member-elect or the spouse or other members of the family of such Member or Member-elect, and which is so mailed as a part of a Federal publication or in response to a specific request therefor and is not included for publicity purposes in a newsletter or other general mass mailing of the Member or Member-elect under the franking privilege; or

(J) mail matter which contains a picture, sketch, or other likeness of any Member or Member-elect and which is so mailed as a part of a Federal publication or in response to a specific request therefor and, when contained in a newsletter or other general mass mailing of any Member or Member-elect, is not of such size, or does not occur with such frequency in the mail matter concerned, as to lead to the conclusion that the purpose of such picture, sketch, or likeness is to advertise the Member or Member-elect rather than to illustrate accompanying text.

(4) It is the intent of the Congress that the franking privilege under this section shall not permit, and may not be used for, the transmission through the mails as franked mail, of matter which in its nature is purely personal to the sender or to any other person and is unrelated to the official business, activities, and duties of the public officials covered by subsection (b)(1) of this section.

(5) It is the intent of the Congress that a Member of or Member-elect to Congress may not mail as franked mail—

(A) mail matter which constitutes or includes any article, account, sketch, narration, or other text laudatory and complimentary of any Member of, or Member-elect to, Congress on a purely personal or political basis rather than on the basis of performance of official duties as a Member or on the basis of activities as a Member-elect;

(B) mail matter which constitutes or includes—

(i) greetings from the spouse or other members of the family of such Member or Member-elect unless it is a brief reference in otherwise frankable mail;

(ii) reports of how or when such Member or Member-elect, or the spouse or any other member of the family of such Member or Member-elect, spends time other than in the performance of, or in connection with, the legislative, representative, and other official functions of such Member or the activities of such Member-elect as a Member-elect; or

(iii) any card expressing holiday greetings from such Member or Member-elect; or

(C) mail matter which specifically solicits political support for the sender or any other person or any political party, or a vote or financial assistance for any candidate for any public office.

The House Commission on Congressional Mailing Standards and the Select Committee on Standards and Conduct of the Senate shall prescribe for their respective Houses such rules and regulations and shall take such other action, as

the Commission or Committee considers necessary and proper for the Members and Members-elect to conform to the provisions of this clause and applicable rules and regulations. Such rules and regulations shall include, but not be limited to, provisions prescribing the time within which such mailings shall be mailed at or delivered to any postal facility to attain compliance with this clause and the time when such mailings shall be deemed to have been so mailed or delivered and such compliance attained.

(6)(A) It is the intent of Congress that a Member of, or Member-elect to, Congress may not mail any mass mailing as franked mail—

(i) if the mass mailing is postmarked fewer than 60 days (or, in the case of a Member of the House, fewer than 90 days) immediately before the date of any primary election or general election (whether regular, special, or runoff) in which the Member is a candidate for reelection; or

(ii) in the case of a Member of, or Member-elect to, the House who is a candidate for any other public office, if the mass mailing—

(I) is prepared for delivery within any portion of the jurisdiction of or the area covered by the public office which is outside the area constituting the congressional district from which the Member or Member-elect was elected; or

(II) is postmarked fewer than 90 days immediately before the date of any primary election or general election (whether regular, special, or runoff) in which the Member or Member-elect is a candidate for any other public office.

(B) Any mass mailing which is mailed by the chairman of any organization referred to in the last sentence of section 3215 of this title which relates to the normal and regular business of the organization may be mailed without regard to the provisions of this paragraph.

(C) No Member of the Senate may mail any mass mailing as franked mail if such mass mailing is postmarked fewer than 60 days immediately before the date of any primary election or general election (whether regular, special, or runoff) for any national, State or local office in which such Member is a candidate for election.

(D) The Select Committee on Ethics of the Senate and the House Commission on Congressional Mailing Standards shall prescribe for their respective Houses rules and regulations, and shall take other action as the Committee or the Commission considers necessary and proper for Members and Members-elect to comply with the provisions of this paragraph and applicable rules and regulations. The rules and regulations shall include provisions prescribing the time within which mailings shall be mailed at or delivered to any postal facility and the time when the mailings shall be deemed to have been mailed or delivered to comply with the provisions of this paragraph.

(E) As used in this section, the term ''mass mailing'' means, with respect to a session of Congress, any mailing of newsletters or other pieces of mail with substantially identical content (whether such mail is deposited singly or in bulk, or at the same time or different times), totaling more than 500 pieces in that session, except that such term does not include any mailing—

(i) of matter in direct response to a communication from a person to whom the matter is mailed;

(ii) from a Member of Congress to other Members of Congress, or to Federal, State, or local government officials; or

(iii) of a news release to the communications media.

(F) For purposes of subparagraphs (A) and (C) if mail matter is of a type which is not customarily postmarked, the date on which such matter would have been postmarked if it were of a type customarily postmarked shall apply.

(7) A Member of the House of Representatives may not send any mass mailing outside the congressional district from which the Member was elected.

(b)(1) The Vice President, each Member of or Member-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House), the Legislative Counsels of the House of Representatives and the Senate, the Law Revision Counsel of the House of Representatives, and the Senate Legal Counsel, may send, as franked mail, matter relating to their official business, activities, and duties, as intended by Congress to be mailable as franked mail under subsection (a)(2) and (3) of this section.

(2) If a vacancy occurs in the Office of the Secretary of the Senate, the Sergeant at Arms of the Senate, an elected officer of the House of Representatives (other than a Member of the House), the Legislative Counsel of the House of Representatives or the Senate, the Law Revision Counsel of the House of Representatives, or the Senate Legal Counsel, any authorized person may exercise the franking privilege in the officer's name during the period of the vacancy.

(3) The Vice President, each Member of Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, and each of the elected officers of the House (other than a Member of the House), during the 90-day period immediately following the date on which they leave office, may send, as franked mail, matter on official business relating to the closing of their respective offices. The House Commission on Congressional Mailing Standards and the Select Committee on Standards and Conduct of the Senate shall prescribe for their respective Houses such rules and regulations, and shall take such other action as the Commission or Committee considers necessary and proper, to carry out the provisions of this paragraph.

(c) Franked mail may be in any form appropriate for mail matter, including, but not limited to, correspondence, newsletters, questionnaires, recordings, facsimiles, reprints, and reproductions. Franked mail shall not include matter which is intended by Congress to be nonmailable as franked mail under subsection (a)(4) and (5) of this section.

(d)(1) A Member of Congress may mail franked mail with a simplified form of address for delivery within that area constituting the congressional district or State from which the Member was elected.

(2) A Member-elect to the Congress may mail franked mail with a simplified form of address for delivery within that area constituting the congressional district or the State from which he was elected.

(3) A Delegate, Delegate-elect, Resident Commissioner, or Resident Commissioner-elect to the House of Representatives may mail franked mail with a simplified form of address for delivery within the area from which he was elected.

(4) Any franked mail which is mailed under this subsection shall be mailed at the equivalent rate of postage which assures that the mail will be sent by the most economical means practicable.

(5) The Senate Committee on Rules and Administration and the House Commission on Congressional Mailing Standards shall prescribe for their respective Houses rules and regulations governing any franked mail which is mailed under this subsection and shall by regulation limit the number of such mailings allowed under this subsection

(6)(A) Any Member of, or Member-elect to, the House of Representatives entitled to make any mailing as franked mail under this subsection shall, before making any mailing, submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an advisory opinion as to whether the proposed mailing is in compliance with the provisions of this subsection.

(B) The Senate Select Committee on Ethics may require any Member of, or Member-elect to, the Senate entitled to make any mailings as franked mail under this subsection to submit a sample or description of the mail matter to the Committee for an advisory opinion as to whether the proposed mailing is in compliance with the provisions of this subsection.

(7) Franked mail mailed with a simplified form of address under this subsection—

(A) shall be prepared as directed by the Postal Service; and

(B) may be delivered to—

(i) each box holder or family on a rural or star route;

(ii) each post office box holder; and

(iii) each stop or box on a city carrier route.

(8) For the purposes of this subsection, a congressional district includes, in the case of a Representative at Large or Representative at Large-elect, the State from which he was elected.

(e) The frankability of mail matter shall be determined under the provisions of this section by the type and content of the mail sent, or to be sent.

(f) Any mass mailing which otherwise would be permitted to be mailed as franked mail under this section shall not be so mailed unless the cost of preparing and printing the mail matter is paid exclusively from funds appropriated by Congress, except that an otherwise frankable mass mailing may contain, as an enclosure or supplement, any public service material which is purely instructional or informational in nature, and which in content is frankable under this section.

(g) Notwithstanding any other provision of Federal, State, or local law, or any regulation thereunder, the equivalent amount of postage determined under section 3216 of this title on franked mail mailed under the frank of the Vice President or a Member of Congress, and the cost of preparing or printing such frankable matter for such mailing under the frank, shall not be considered as a contribution to, or an expenditure by, the Vice President or a Member of Congress for the purpose of determining any limitation on expenditures or contributions with respect to any such official, imposed by any Federal, State, or local law or regulation, in connection with any campaign of such official for election to any Federal office.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 754; Pub. L. 92–51, § 101, July 9, 1971, 85 Stat. 132; Pub. L. 93–191, § 1(a), Dec. 18, 1973, 87 Stat. 737; Pub. L. 94–177, Dec. 23, 1975, 89 Stat. 1032; Pub. L. 95–521, title VII, § 714(a), Oct. 26, 1978, 92 Stat. 1884; Pub. L. 97–69, §§ 1–3(a), 4, Oct. 26, 1981, 95 Stat. 1041–1043; Pub. L. 97–263, § 1(1), (2), Sept. 24, 1982, 96 Stat. 1132; Pub. L. 101–163, title III, § 318, Nov. 21, 1989, 103 Stat. 1067; Pub. L. 101–520, title III, §§ 311(h)(1), 316, Nov. 5, 1990, 104 Stat. 2280, 2283; Pub. L. 102–392, title III, § 309(a), Oct. 6, 1992, 106 Stat. 1722; Pub. L. 104–197, title I, § 102(a), Sept. 16, 1996, 110 Stat. 2401; Pub. L. 109–435, title X, § 1010(g)(4), Dec. 20, 2006, 120 Stat. 3262.)

AMENDMENTS

2006—Subsec. (a)(6)(C). Pub. L. 109–435 substituted ''is postmarked fewer'' for ''is mailed fewer''.

1996—Subsec. (a)(6)(A)(i). Pub. L. 104–197, § 102(a)(1), inserted ''(or, in the case of a Member of the House, fewer than 90 days)'' after ''60 days''.

Subsec. (a)(6)(A)(ii)(II). Pub. L. 104–197, § 102(a)(2), substituted ''90 days'' for ''60 days''.

1992—Subsec. (a)(7). Pub. L. 102–392, § 309(a)(1), substituted ''from which the Member was elected'' for ''of the Member, except that—

''(A) a Member of the House of Representatives may send mass mailings to any area in a county, if any part of the county adjoins or is inside the congressional district of the Member; and

''(B) in the case of redistricting, on and after the date referred to in subsection (d)(1)(B), a Member of the House of Representatives may send mass mailings to the additional area described in that section''.

Subsec. (d)(1). Pub. L. 102–392, § 309(a)(2), struck out subpar. (A) designation, substituted ''the Member'' for ''he'' and a period for ''; and'', and struck out subpar. (B) which read as follows: ''with respect to a Member of the House of Representatives on and after the date on which the proposed redistricting of congressional districts in his State by legislative or judicial proceedings is initially completed (whether or not the redistricting is actually in effect), within any additional area of each congressional district proposed or established in such redistricting and containing all or part of the area constituting the congressional district from which he was elected, unless and until the congressional district so proposed or established is changed by legislative or judicial proceedings.''

1990—Subsec. (a)(6)(E). Pub. L. 101–520, § 311(h)(1), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: ''For purposes of this section, the term 'mass mailing' means newsletters and similar mailings of more than five hundred pieces in which the content of the matter mailed is substantially identical but shall not apply to mailings—

''(i) which are in direct response to communications from persons to whom the matter is mailed;

''(ii) to colleagues in the Congress or to government officials (whether Federal, State, or local); or

''(iii) of news releases to the communications media.''

Subsec. (a)(7). Pub. L. 101–520, § 316, added par. (7).

1989—Subsec. (a)(6). Pub. L. 101–163, § 318(3), which directed the substitution of ''is postmarked fewer'' for ''is mailed fewer'' in subparagraph (c) of subsec. (a)(6) of this section, was not executed because subsec. (a)(6) does not have a subparagraph (c). See 2006 Amendment note above.

Subsec. (a)(6)(A)(i), (ii)(II). Pub. L. 101–163, § 318(1), (2), substituted ''is postmarked fewer'' for ''is mailed fewer''.

Subsec. (a)(6)(F). Pub. L. 101–163, § 318(4), added subpar. (F).

1982—Subsec. (b)(1), (2). Pub. L. 97–263 inserted reference to Law Revision Counsel of House of Representatives.

1981—Subsec. (a)(3)(F). Pub. L. 97–69, § 1, struck out provision relating to mail matter expressing condolences to a person who has suffered a loss.

Subsec. (a)(5). Pub. L. 97–69, § 2(a), inserted provision relating to brief references in otherwise frankable mail in subpar. (B)(i), and struck out subpar. (D) which related to mass mailing mailed at or delivered to any postal facility less than 28 days immediately before the date of any primary or general election in which the Member or Member-elect was a candidate for public office. See subsec. (a)(6) of this section.

Subsec. (a)(6). Pub. L. 97–69, § 2(b), added par. (6).

Subsec. (d). Pub. L. 97–69, § 3(a), substituted ''Congress'' for ''the House'' in provisions of par. (1) preceding subpar. (A), substituted ''congressional district or State'' for ''congressional district'' in par. (1)(A), inserted ''with respect to a Member of the House of Representatives'' after ''(B)'' in par. (1)(B), substituted ''Congress'' for ''House of Representatives'' and ''congressional district or the State'' for ''congressional district'' in par. (2), added pars. (4), (5), and (6), and redesignated former pars. (4) and (5) as (7) and (8), respectively.

Subsec. (e). Pub. L. 97–69, § 4(a), struck out provisions under which the cost of preparing or printing mail matter which was frankable under this section could be paid from any funds, including but not limited to funds collected by a candidate or a political committee required to file reports of receipts and expenditures under the Federal Election Campaign Act of 1971 (Public Law 92–225), or from voluntary newsletter funds, or from similar funds administered or controlled by a Member or by a committee organized to administer such funds.

Subsecs. (f), (g). Pub. L. 97–69, § 4(b), added subsec. (f) and redesignated former subsec. (f) as (g).

1978—Subsec. (b)(1), (2). Pub. L. 95–521 inserted reference to Senate Legal Counsel.

1975—Subsec. (b)(1). Pub. L. 94–177, § 1(a), struck out ''and'' before ''each of the elected officers'', and ''until the 1st day of April following the expiration of their respective terms of office'' after ''(other than a Member of the House)''.

Subsec. (b)(3). Pub. L. 94–177, § 1(b), added par. (3).

1973—Subsec. (a). Pub. L. 93–191 added subsec. (a). Former first sentence provided in part for franked mail (1) matter, not exceeding 4 pounds in weight, upon official or departmental business, to a Government official, and (2) correspondence, not exceeding 4 ounces in weight, upon official business to any person.

Subsec. (b)(1). Pub. L. 93–191 incorporated part of former first sentence in provisions designated as subsec. (b)(1), substituted reference to elected officers of House of Representatives (other than a Member of House) for former references to Clerk of House of Representatives and the Sergeant at Arms of House of Representatives, included reference to Legislative Counsel of Senate, substituted the 1st day of April for the thirtieth day of June, and substituted internal reference to subsec. (a)(2) and (3) of this section for former provision respecting franked mail (1) matter, not exceeding 4 pounds in weight, upon official or departmental business, to a Government official, and (2) correspondence, not exceeding 4 ounces in weight, upon official business to any person.

Subsec. (b)(2). Pub. L. 93–191 incorporated former second sentence in provisions designated as subsec. (b)(2), substituted provision respecting vacancy in Office of an elected officer of House of Representatives (other than a Member of House) for former provision respecting vacancy in office of Clerk of House of Representatives and Sergeant at Arms of House of Representatives and included provision for vacancy in Office of Legislative Counsel of Senate.

Subsecs. (c) to (f). Pub. L. 93–191 added subsecs. (c) to (f).

1971—Pub. L. 92–51 inserted reference to Legislative Counsel of House of Representatives.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 102(b) of Pub. L. 104–197 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1996, and shall apply with respect to any mailing postmarked on or after that date.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 309(b) of Pub. L. 102–392 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 6, 1992].''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 311(h)(1) of Pub. L. 101–520 applicable with respect to sessions of Congress beginning with the first session of the One Hundred Second Congress, see section 59e(i) of Title 2, The Congress.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 3(b) of Pub. L. 97–69 provided that: ''This section [amending this section] shall become effective 120 days after the date of enactment of this Act [Oct. 26, 1981].''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–521 effective Jan. 3, 1979, see section 717 of Pub. L. 95–521, set out as an Effective Date note under section 288 of Title 2, The Congress.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 14 of Pub. L. 93–191 provided that:

''(a) Except as provided in subsection (b) of this section, the provisions of this Act [enacting section 3219 of this title and sections 501 and 502 of Title 2, The Congress, amending this section, sections 3206, 3211, 3212, 3215, 3216, and 3218 of this title, and sections 733 and 907 of Title 44, Public Printing and Documents, and repealing section 277 of Title 2] shall become effective on the date of enactment of this Act [Dec. 18, 1973].

''(b) The provisions of section 3214 of title 39, United States Code, as amended by section 4 of this Act; and the provisions of subsection (b) of section 3216 of title 39, United States Code, as amended by section 7 of this Act, shall take effect as of December 27, 1972.''

SEPARABILITY

Section 15 of Pub. L. 93–191 provided that: ''If a provision of this Act [enacting section 3219 of this title and sections 501 and 502 of Title 2, The Congress, amending this section, sections 3206, 3211, 3212, 3214 to 3216, and 3218 of this title, and sections 733 and 907 of Title 44, Public Printing and Documents, and repealing section 277 of Title 2] is held invalid, all valid provisions severable from the invalid provision remain in effect. If a provision of this Act is held invalid in one or more of its applications, such provision remains in effect in all valid applications severable from the invalid application or applications.''

MASS MAILINGS BY SENATORS

Pub. L. 103–283, title I, §§ 5, 6, July 22, 1994, 108 Stat. 1427, provided that:

''SEC. 5. Effective October 1, 1994, each of the figures contained in section 506(b)(3)(A)(iii) of the Supplemental Appropriations Act, 1973 (2 U.S.C.

58(b)(3)(A)(iii)) is increased by $50,000: *Provided*, That, in any fiscal year beginning with fiscal year 1995, a Senator may use funds provided for official office expenses, but not to exceed $50,000, for mass mailing, as defined in section 6(b)(1) and all such mass mailings shall be under the frank.

''SEC. 6. (a) This section shall apply to mailings by Senators, made during fiscal year 1995 and each fiscal year thereafter in addition to any other law relating to the use of the franking privilege.

''(b) For the purposes of this paragraph—

''(1) the term 'mass mailing'—

''(A) means, with respect to a session of Congress, a mailing of more than 500 newsletters or other pieces of mail with substantially identical content (whether such mail is deposited singly or in bulk, or at the same time or different times), but

''(B) does not include a mailing—

''(i) of matter in direct response to a communication from a person to whom the matter is mailed;

''(ii) to other Members of Congress or to a Federal, State, or local government official;

''(iii) of a news release to the communications media;

''(iv) of a town meeting notice, but no such mailing may be made fewer than 60 days immediately before the date of any primary election or general election (whether regular, special, or runoff) for any Federal, State, or local office in which a Member of the Senate is a candidate for election; or

''(v) of a Federal publication or other item that is provided by the Senate to all Senators or made available by the Senate for purchase by all Senators from official funds specifically for distribution.

''(c) Except as provided in section 5, a Senator may not mail a mass mailing under the frank.

''(d) The Senate Committee on Rules and Administration shall prescribe rules and regulations and take other action as the Committee considers necessary and proper for Senators to comply with this section and regulations.''

Section 316(a), formerly section 316(a), (b), of Pub. L. 101–163, as renumbered and amended by Pub. L. 101–520, title III, § 311(h)(3), Nov. 5, 1990, 104 Stat. 2280; Pub. L. 102–392, title III, § 308(a), Oct. 6, 1992, 106 Stat. 1722, provided that: ''Effective January 1, 1990, a mass mailing (as defined in section 3210(a)(6)(E) of title 39, United States Code) by a Senator shall be limited to 2 sheets of paper (or their equivalent), including any enclosure that—

''(1) is prepared by or for the Senator who makes the mailing; or

''(2) contains information concerning, expresses the views of, or otherwise relates to the Senator who makes the mailing.''

[Section 308(b) of Pub. L. 102–392 provided that: ''The amendments made by subsection (a) [amending section 316(a) of Pub. L. 101–163, set out above] shall take effect on October 1, 1992.'']

§ 3211. Public documents

The Vice President, Members of Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House) during the 90-day period immediately following the expiration of their respective terms of office, may send and receive as franked mail all public documents printed by order of Congress.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 754; Pub. L. 93–191, § 2, Dec. 18, 1973, 87 Stat. 741; Pub. L. 97–69, § 5(a), Oct. 26, 1981, 95 Stat. 1043.)

AMENDMENTS

1981—Pub. L. 97–69 substituted ''during the 90-day period immediately'' for ''until the first day of April''.

1973—Pub. L. 93–191 substituted ''each of the elected officers of the House of Representatives (other than a Member of the House) until the first day of April'' for ''the Clerk of the House of Representatives, and the Sergeant at Arms of the House of Representatives, until the thirtieth day of June''.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–191 effective Dec. 18, 1973, see section 14 of Pub. L. 93–191, set out as a note under section 3210 of this title.

§ 3212. Congressional Record under frank of Members of Congress

(a) Members of Congress may send the Congressional Record as franked mail.

(b) Members of Congress may send, as franked mail, any part of, or a reprint of any part of, the Congressional Record, including speeches or reports contained therein, if such matter is mailable as franked mail under section 3210 of this title.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 754; Pub. L. 93–191, § 3, Dec. 18, 1973, 87 Stat. 741.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–191 incorporated existing text in provisions designated as subsec. (a).

Subsec. (b). Pub. L. 93–191 incorporated existing text in provisions designated as subsec. (b), authorized sending, as franked mail, reprints of parts of Congressional Record, and authorized the mailing of Congressional Record if the listed matter is mailable as franked mail under section 3210 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–191 effective Dec. 18, 1973, see section 14 of Pub. L. 93–191, set out as a note under section 3210 of this title.

§ 3213. Seeds and reports from Department of Agriculture

Seeds and agricultural reports emanating from the Department of Agriculture may be mailed—

(1) as penalty mail by the Secretary of Agriculture; and

(2) during the 90-day period immediately following the expiration of their terms of office, as franked mail by Members of Congress.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 754; Pub. L. 97–69, § 5(b), Oct. 26, 1981, 95 Stat. 1043.)

AMENDMENTS

1981—Par. (2). Pub. L. 97–69 substituted ''during the 90-day period immediately'' for ''until the thirtieth day of June''.

§ 3214. Mailing privilege of former President; surviving spouse of former President

A former President and the surviving spouse of a former President may send nonpolitical mail within the United States and its territories and possessions as franked mail. Such mail of a former President and of the surviving spouse of a former President marked ''Postage and Fees Paid'' in the manner prescribed by the Postal Service shall be accepted by the Postal Service for transmission in the international mails.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 754; Pub. L. 93–191, § 4(a), Dec. 18, 1973, 87 Stat. 742; Pub. L.

103–123, title IV, § 6(b), Oct. 28, 1993, 107 Stat. 1246; Pub. L. 105–61, title IV, § 409(b), Oct. 10, 1997, 111 Stat. 1299.)

AMENDMENTS

1997—Pub. L. 105–61 struck out subsec. (a) designation, substituted ''A former President'' for ''Subject to subsection (b), a former President'', and struck out subsec. (b) which read as follows: ''Subsection (a) shall cease to apply—

''(1) 5 years after the effective date of this subsection, in the case of any individual who, on such effective date—

''(A) is a former President (including any individual who might become entitled to the mailing privilege under subsection (a) as the surviving spouse of such a former President); or

''(B) is the surviving spouse of a former President; and

''(2) 4 years and 6 months after the expiration of the period for which services and facilities are authorized to be provided under section 4 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), in the case of an individual who becomes a former President after such effective date (including any surviving spouse of such individual, as described in the parenthetical matter in paragraph (1)(A)).''

1993—Pub. L. 103–123 designated existing provisions as subsec. (a), substituted ''Subject to subsection (b), a former'' for ''A former'', and added subsec. (b).

1973—Pub. L. 93–191 limited the mailing privilege to nonpolitical mail, extended the privilege to surviving spouse of former President and provided for acceptance of such mail marked ''Postage and Fees Paid'' by the Postal Service for transmission in the international mails.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 6(c) of Pub. L. 103–123 provided that: ''The amendments made by subsections (a) and (b) [amending this section and provisions set out as a note under section 102 of Title 3, The President] shall take effect on October 1, 1993.''

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–191 effective Dec. 27, 1972, see section 14 of Pub. L. 93–191, set out as a note under section 3210 of this title.

§ 3215. Lending or permitting use of frank unlawful

A person entitled to use a frank may not lend it or permit its use by any committee, organization, or association, or permit its use by any person for the benefit or use of any committee, organization, or association. This section does not apply to any standing, select, special, or joint committee, or subcommittee thereof, or commission, of the Senate, House of Representatives, or Congress, composed of Members of Congress, or to the Democratic caucus or the Republican conference of the House of Representatives or of the Senate.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 754; Pub. L. 93–191, § 10, Dec. 18, 1973, 87 Stat. 746.)

AMENDMENTS

1973—Pub. L. 93–191 substituted provision for nonapplication of section to ''any standing, select, special, or joint committee, or subcommittee thereof, or commission, of the Senate, House of Representatives, or Congress, composed of Members of Congress, or to the Democratic caucus or the Republican conference of the House of Representatives or of the Senate'' for such nonapplication to ''any committee composed of Members of Congress''.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–191 effective Dec. 18, 1973, see section 14 of Pub. L. 93–191, set out as a note under section 3210 of this title.

§ 3216. Reimbursement for franked mailings

(a) The equivalent of—

(1) postage on, and fees and charges in connection with, mail matter sent through the mails—

(A) under the franking privilege (other than under section 3219 of this title), by the Vice President, Members of and Members-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House), the Legislative Counsels of the House of Representatives and the Senate, the Law Revision Counsel of the House of Representatives, and the Senate Legal Counsel; and

(B) by the survivors of a Member of Congress under section 3218 of this title; and

(2) those portions of fees and charges to be paid for handling and delivery by the Postal Service of Mailgrams considered as franked mail under section 3219 of this title;

shall be paid by appropriations for the official mail costs of the Senate and the House of Representatives for that purpose and then paid to the Postal Service as postal revenue. Except as to Mailgrams and except as provided by sections 733 and 907 of title 44, envelopes, wrappers, cards, or labels used to transmit franked mail shall bear, in the upper right-hand corner, the sender's signature, or a facsimile thereof.

(b) Postage on, and fees and charges in connection with, mail matter sent through the mails under section 3214 of this title shall be paid each fiscal year, out of any appropriation made for that purpose, to the Postal Service as postal revenue in an amount equivalent to the postage, fees, and charges which would otherwise be payable on, or in connection with, such mail matter.

(c) Payment under subsection (a) or (b) of this section shall be deemed payment for all matter mailed under the frank and for all fees and charges due the Postal Service in connection therewith.

(d) Money collected for matter improperly mailed under the franking privilege shall be deposited as miscellaneous receipts in the general fund of the Treasury.

(e)(1) Not later than two weeks after the last day of each quarter of the fiscal year, or as soon as practicable thereafter, the Postmaster General shall send to the Chief Administrative Officer of the House of Representatives, the House Commission on Congressional Mailing Standards, the Secretary of the Senate, and the Senate Committee on Rules and Administration a report which shall contain a tabulation of the estimated number of pieces and costs of franked mail, as defined in section 3201 of this title, in each mail classification sent through the mail for that quarter and for the preceding quarters in the fiscal year, together with separate tabulations of the number of pieces and costs of such mail sent by the House and by the Senate.

(2) Two weeks after the close of the second quarter of the fiscal year, or as soon as practicable thereafter, the Postmaster General shall send to the Chief Administrative Officer of the House of Representatives, the House Commission on Congressional Mailing Standards, the Committee on House Oversight, the Secretary of the Senate, and the Senate Committee on Rules and Administration, a statement of the costs of postage on, and fees and charges in connection with, mail matter sent through the mails as described in paragraph (1) of this subsection for the preceding two quarters together with an estimate of such costs for the balance of the fiscal year. As soon as practicable after receipt of this statement, the House Commission on Congressional Mailing Standards, the Committee on House Oversight, and the Senate Committee on Rules and Administration shall consider promulgating such regulations for their respective Houses as may be necessary to ensure that total postage costs, as described in paragraph (1) of this subsection, will not exceed the amounts available for the fiscal year.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 754; Pub. L. 92–51, § 101, July 9, 1971, 85 Stat. 132; Pub. L. 93–191, § 7, Dec. 18, 1973, 87 Stat. 745; Pub. L. 93–255, § 2(a), Mar. 27, 1974, 88 Stat. 52; Pub. L. 95–521, title VII, § 714(b), Oct. 26, 1978, 92 Stat. 1884; Pub. L. 97–69, § 6(a), Oct. 26, 1981, 95 Stat. 1043; Pub. L. 97–263, § 1(3), Sept. 24, 1982, 96 Stat. 1132; Pub. L. 101–163, title III, §§ 316(b), formerly § 316(c), 317, Nov. 21, 1989, 103 Stat. 1067, renumbered § 316(b), Pub. L. 101–520, title III, § 311(h)(3)(B), Nov. 5, 1990, 104 Stat. 2280; Pub. L. 102–90, title III, § 306, Aug. 14, 1991, 105 Stat. 466; Pub. L. 104–186, title II, § 220, Aug. 20, 1996, 110 Stat. 1748.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–186 substituted ''Chief Administrative Officer of the House of Representatives'' for ''Clerk of the House'' in pars. (1) and (2) and ''House Oversight'' for ''House Administration'' in two places in par. (2).

1991—Subsec. (e)(2). Pub. L. 102–90 substituted ''paragraph (1) of this subsection'' for ''subsection (1) of this section'' in two places.

1990—Pub. L. 101–520 made technical amendment to Pub. L. 101–163, § 316(b). See 1989 Amendment note below.

1989—Subsec. (a). Pub. L. 101–163, § 316(b), formerly § 316(c), as renumbered by Pub. L. 101–520, which directed substitution of ''by appropriations for the official mail costs of the Senate and the House of Representatives'' for ''by a lump sum appropriation to the legislative branch'' was executed by making the substitution for ''by a lump-sum appropriation to the legislative branch'' to reflect the probable intent of Congress.

Subsec. (e). Pub. L. 101–163, § 317, added subsec. (e).

1982—Subsec. (a)(1)(A). Pub. L. 97–263 inserted reference to Law Revision Counsel of House of Representatives.

1981—Subsec. (a)(1)(B). Pub. L. 97–69 substituted ''survivors'' for ''surviving spouse''.

1978—Subsec. (a)(1)(A). Pub. L. 95–521 inserted reference to Senate Legal Counsel.

1974—Subsec. (a). Pub. L. 93–255 struck out '', and the printed words 'Postage paid by Congress'' ' at end of last sentence.

1973—Subsec. (a). Pub. L. 93–191 incorporated existing text in provisions designated as par. (1)(A) and (B), substituted in subpar. (a) reference to elected officers of House of Representatives (other than a Member of House) for former references to Clerk of House of Representatives and Sergeant at Arms of House of Representatives, included in subpar. (A) reference to Legislative Counsel of Senate, added par. (2) and provision for the sender's signature, or facsimile thereof, and printed words ''Postage paid by Congress'' in upper right-hand corner on transmitted franked mail.

Subsec. (b). Pub. L. 93–191 added subsec. (b). Former subsec. (b), which provided that the postage on mail matter sent through the mails under the franking privilege by former Presidents shall be paid by reimbursement of the postal revenues each fiscal year out of the general funds of the Treasury in an amount equivalent to the postage which would otherwise be payable on the mail matter, was struck out.

Subsecs. (c), (d). Pub. L. 93–191 added subsecs. (c) and (d).

1971—Subsec. (a). Pub. L. 92–51 inserted reference to Legislative Counsel of House of Representatives.

CHANGE OF NAME

Committee on House Oversight of House of Representatives changed to Committee on House Administration of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 316(b), formerly section 316(c), of Pub. L. 101–163, as renumbered by Pub. L. 101–520, title III, § 311(h)(3)(B), Nov. 5, 1990, 104 Stat. 2280, provided that the amendment made by that section is effective Oct. 1, 1989.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–521 effective Jan. 3, 1979, see section 717 of Pub. L. 95–521, set out as an Effective Date note under section 288 of Title 2, The Congress.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–191 effective Dec. 18, 1973, except that subsec. (b) of this section effective Dec. 27, 1972, see section 14 of Pub. L. 93–191, set out as a note under section 3210 of this title.

§ 3217. Correspondence of members of diplomatic corps and consuls of countries of Postal Union of Americas and Spain

Correspondence of the members of the diplomatic corps of the countries of the Postal Union of the Americas and Spain stationed in the United States may be reciprocally transmitted in the domestic mails free of postage, and be entitled to free registration without right to indemnity in case of loss. The same privilege is accorded consuls and vice consuls when they are discharging the function of consuls of countries stationed in the United States, for official correspondence among themselves, and with the Government of the United States.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 755.)

FREE MAILING PRIVILEGES CONTINUE UNCHANGED

Pub. L. 109–435, title V, § 505(c), Dec. 20, 2006, 120 Stat. 3236, provided that: ''Nothing in this Act [see Tables for classification] or any amendment made by this Act shall affect any free mailing privileges accorded under section 3217 or sections 3403 through 3406 of title 39, United States Code.''

§ 3218. Franked mail for survivors of Members of Congress

Upon the death of a Member of Congress during his term of office, the surviving spouse of such Member (or, if there is no surviving spouse,

a member of the immediate family of the Member designated by the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, in accordance with rules and procedures established by the Secretary or the Clerk) may send, for a period not to exceed 180 days after his death, as franked mail, nonpolitical correspondence relating to the death of the Member.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 755; Pub. L. 93–191, § 11, Dec. 18, 1973, 87 Stat. 746; Pub. L. 97–69, § 6(b), (c)(1), Oct. 26, 1981, 95 Stat. 1043.)

AMENDMENTS

1981—Pub. L. 97–69 substituted ''survivors'' for ''surviving spouses'' in section catchline and, in text, inserted ''(or, if there is no surviving spouse, a member of the immediate family of the Member designated by the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, in accordance with rules and procedures established by the Secretary or the Clerk)'' after ''such Member''.

1973—Pub. L. 93–191 inserted ''nonpolitical'' before ''correspondence''.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–191 effective Dec. 18, 1973, see section 14 of Pub. L. 93–191, set out as a note under section 3210 of this title.

§ 3219. Mailgrams

Any Mailgram sent by the Vice President, a Member of or Member-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, an elected officer of the House of Representatives (other than a Member of the House), the Legislative Counsel of the House of Representatives or the Senate, the Law Revision Counsel of the House of Representatives, or the Senate Legal Counsel, and then delivered by the Postal Service, shall be considered as franked mail, subject to section 3216(a)(2) of this title, if such Mailgram contains matter of the kind authorized to be sent by that official as franked mail under section 3210 of this title.

(Added Pub. L. 93–191, § 12(a), Dec. 18, 1973, 87 Stat. 746; amended Pub. L. 95–521, title VII, § 714(c), Oct. 26, 1978, 92 Stat. 1884; Pub. L. 97–263, § 1(4), Sept. 24, 1982, 96 Stat. 1132.)

AMENDMENTS

1982—Pub. L. 97–263 inserted reference to Law Revision Counsel of House of Representatives.

1978—Pub. L. 95–521 inserted reference to Senate Legal Counsel.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–521 effective Jan. 3, 1979, see section 717 of Pub. L. 95–521, set out as an Effective Date note under section 288 of Title 2, The Congress.

EFFECTIVE DATE

Section effective Dec. 18, 1973, see section 14 of Pub. L. 93–191, set out as an Effective Date of 1976 Amendment note under section 3210 of this title.

§ 3220. Use of official mail in the location and recovery of missing children

(a)(1) The Office of Juvenile Justice and Delinquency Prevention, after consultation with appropriate public and private agencies, shall prescribe general guidelines under which penalty mail may be used to assist in the location and recovery of missing children. The guidelines shall provide information relating to—

(A) the form and manner in which materials and information relating to missing children (such as biographical data and pictures, sketches, or other likenesses) may be included in penalty mail;

(B) appropriate sources from which such materials and information may be obtained;

(C) the procedures by which such materials and information may be obtained; and

(D) any other matter which the Office considers appropriate.

(2) Each executive department and independent establishment of the Government of the United States shall prescribe regulations under which penalty mail sent by such department or establishment may be used in conformance with the guidelines prescribed under paragraph (1).

(b) The Senate Committee on Rules and Administration and the House Commission on Congressional Mailing Standards shall prescribe for their respective Houses rules and regulations, and shall take such other action as the Committee or Commission considers necessary and proper, in order that purposes similar to those of subsection (a) may, in the discretion of the congressional official or office concerned, be carried out by the use of franked mail sent by such official or office.

(c) As used in this section, ''Office of Juvenile Justice and Delinquency Prevention'' and ''Office'' each means the Office of Juvenile Justice and Delinquency Prevention within the Department of Justice, as established by section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974.

(Added Pub. L. 99–87, § 1(a)(1), Aug. 9, 1985, 99 Stat. 290.)

REFERENCES IN TEXT

Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974, referred to in subsec. (c), is section 201 of Pub. L. 93–415, which enacted section 5611 of Title 42, The Public Health and Welfare, and amended section 5108 of Title 5, Government Organization and Employees.

TERMINATION DATE

Pub. L. 99–87, § 5, Aug. 9, 1985, 99 Stat. 290, as amended by Pub. L. 100–202, § 101(m) [title VI, § 627(a)], Dec. 22, 1987, 101 Stat. 1329–390, 1329–430; Pub. L. 102–514, § 1(2), Oct. 24, 1992, 106 Stat. 3371; Pub. L. 105–126, § 1(2), Dec. 1, 1997, 111 Stat. 2542, which provided that the amendments made by section 1 of Pub. L. 99–87, enacting this section and amending sections 3201 and 3204 of this title and section 733 of Title 44, Public Printing and Documents, and any guidelines, rules, or regulations prescribed to carry out such amendments were to cease to be effective after December 31, 2002, was repealed by Pub. L. 109–426, § 1, Dec. 20, 2006, 120 Stat. 2911.

ISSUANCE OF GUIDELINES, RULES, AND REGULATIONS

Pub. L. 99–87, § 2, Aug. 9, 1985, 99 Stat. 291, provided that:

''(a) GUIDELINES.—The guidelines described in section 3220(a)(1) of title 39, United States Code, as added by this Act, shall be prescribed not later than ninety days after the date of the enactment of this Act (Aug. 9, 1985).

''(b) RULES AND REGULATIONS.—The regulations described in subsection (a)(2) of section 3220 of title 39,

United States Code, as added by this Act, and the rules and regulations described in subsection (b) of such section, as so added, shall be prescribed not later than one hundred and eighty days after the date of the enactment of this Act (Aug. 9, 1985).''

REPORTING REQUIREMENTS

Pub. L. 99–87, § 3, Aug. 9, 1985, 99 Stat. 291, as amended by Pub. L. 100–202, § 101(m) (title VI, § 627(b)), Dec. 22, 1987, 101 Stat. 1329–390, 1329–430; Pub. L. 102–514, § 1(1), Oct. 24, 1992, 106 Stat. 3371; Pub. L. 105–126, § 1(1), Dec. 1, 1997, 111 Stat. 2542, required the Office of Juvenile Justice and Delinquency Prevention, the Senate Committee on Rules and Administration, and the House Commission on Congressional Mailing Standards each to submit a report no later than June 30, 2002, on the authority provided by this section.

CLARIFICATION RELATING TO COORDINATION OF GOVERNMENT PROGRAMS

Pub. L. 99–87, § 4, Aug. 9, 1985, 99 Stat. 292, provided that: ''Notwithstanding any other provision of law, the authority provided by section 3220(b) of title 39, United States Code, as added by this Act, shall not be considered to be subject to the authority of any agency within the executive branch of the Government of the United States to coordinate programs relating to missing children.''

CHAPTER 34—ARMED FORCES AND FREE POSTAGE

Sec.
3401. Mailing privileges of members of Armed Forces of the United States and of friendly foreign nations.
[3402. Repealed.]
3403. Matter for blind and other handicapped persons.
3404. Unsealed letters sent by blind or physically handicapped persons.
3405. Markings.
3406. Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act.

AMENDMENTS

1986—Pub. L. 99–410, title II, § 201(b)(1), Aug. 28, 1986, 100 Stat. 928, added item 3406.

1979—Pub. L. 96–70, title I, § 1331(e)(3)(B), Sept. 27, 1979, 93 Stat. 482, struck out item 3402 ''Mailing privileges of members of Armed Forces of the United States and of friendly foreign nations in the Canal Zone''.

§ 3401. Mailing privileges of members of Armed Forces of the United States and of friendly foreign nations

(a) Letter mail or sound- or video-recorded communications having the character of personal correspondence shall be carried, at no cost to the sender, in the manner provided by this section, when mailed by—

(1) an individual who is a member of the Armed Forces of the United States on active duty, as defined in section 101 of title 10, or a civilian, otherwise authorized to use postal services at Armed Forces installations, who holds a position or performs one or more functions in support of military operations, as designated by the military theater commander, and addressed to a place within the delivery limits of a United States post office, if—

(A) such letter mail or[1] sound- or video-recorded communication is mailed by such individual at an Armed Forces post office established in an overseas area, as designated by the President, where the Armed Forces of the United States are engaged in action against an enemy of the United States, engaged in military operations involving armed conflict with a hostile foreign force, engaged in temporary military operations under arduous circumstances, serving with a friendly foreign force in an armed conflict in which the United States is not a belligerent, or temporarily deployed overseas for an operational contingency in arduous circumstances, as determined by the Secretary of Defense; or

(B) such individual is hospitalized in a facility under the jurisdiction of the Armed Forces of the United States as a result of disease or injury incurred as a result of service in an overseas area designated by the President under clause (A) of this paragraph; or

(2) a member of an armed force of a friendly foreign nation at an Armed Forces post office and addressed to a place within the delivery limits of a United States post office, or a post office of the nation in whose armed forces the sender is a member, if—

(A) the member is accorded free mailing privileges by his own government;

(B) the foreign nation extends similar free mailing privileges to a member of the Armed Forces of the United States serving with, or in, a unit under the control of a command of that foreign nation;

(C) the member is serving with, or in, a unit under the operational control of a command of the Armed Forces of the United States;

(D) such letter mail or sound- or video-recorded communication is mailed by the member—

(i) at an Armed Forces post office established in an overseas area, as designated by the President, where the Armed Forces of the United States are engaged in action against an enemy of the United States, engaged in military operations involving armed conflict with a hostile foreign force, or serving with a friendly foreign force in an armed conflict in which the United States is not a belligerent; or

(ii) while hospitalized in a facility under the jurisdiction of the Armed Forces of the United States as a result of disease or injury incurred as a result of services in an overseas area designated by the President under clause (D)(i) of this paragraph; and

(E) the nation in whose armed forces the sender is a member has agreed to assume all international postal transportation charges incurred.

(b) There shall be transported by air, between Armed Forces post offices which are located outside the 48 contiguous States of the United States or between any such Armed Forces post office and the point of embarkation or debarkation within the United States, the territories and possessions of the United States in the Pacific area, the Commonwealth of Puerto Rico, or the Virgin Islands, on a space available basis, on

[1] See 1990 Amendment note below.

scheduled United States air carriers at rates fixed and determined by the Secretary of Transportation in accordance with section 41901 of title 49, or on military aircraft at rates not to exceed those so fixed and determined for scheduled United States air carriers, the following categories of mail matter:

(1)(A) letter mail or sound- or video-recorded communications having the character of personal correspondence;

(B) parcels not exceeding 15 pounds in weight and 60 inches in length and girth combined; and

(C) publications entitled to a periodical publication rate published once each week or more frequently and featuring principally current news of interest to members of the Armed Forces and the general public,

which are mailed at or addressed to any such Armed Forces post office;

(2) parcels not exceeding 70 pounds in weight and the maximum size allowed by the Postal Service for fourth class parcel post (known as ''Standard Mail (B)''), which are mailed at any such Armed Forces post office; and

(3) parcels exceeding 15 pounds but not exceeding 70 pounds in weight and not exceeding the maximum size allowed by the Postal Service for fourth class parcel post (known as ''Standard Mail (B)''), including surface-type official mail, which are mailed at or addressed to any such Armed Forces post office where adequate surface transportation is not available.

Whenever adequate service by scheduled United States air carriers and military aircraft is not available to provide transportation of mail matter by air in accordance with this subsection, the transportation of such mail may be authorized by other than scheduled United States air carriers and military aircraft.

(c) Any parcel, other than a parcel mailed at a rate of postage requiring priority of handling and delivery, not exceeding 30 pounds in weight and 60 inches in length and girth combined, which is mailed at or addressed to any Armed Forces post office established under section 406(a) of this title, shall be transported by air on a space available basis on scheduled United States air carriers at rates fixed and determined by the Secretary of Transportation in accordance with section 41901 of title 49, or on military aircraft at rates not to exceed those so fixed and determined for scheduled United States air carriers, upon payment of a fee for such air transportation in addition to the rate of postage otherwise applicable to such a parcel not transported by air. If adequate service by scheduled United States air carriers and military aircraft is not available, any such parcel may be transported by other than scheduled United States air carriers and military aircraft.

(d) The Department of Defense shall transfer to the Postal Service as postal revenues, out of any appropriations or funds available to the Department of Defense, as a necessary expense of the appropriations or funds and of the activities concerned, the equivalent amount of postage due, as determined by the Postal Service, for matter sent in the mails under authority of subsection (a) of this section.

(e) The Department of Defense shall transfer to the Postal Service as postal revenues, out of any appropriations or funds available to the Department of Defense, as a necessary expense of the appropriations or funds and of the activities concerned, sums equal to the expenses incurred by the Postal Service, as determined by the Postal Service, in providing air transportation for mail mailed at or addressed to Armed Forces post offices established under section 406 of this title, but reimbursement under this subsection shall not include the expense of air transportation (1) for which the Postal Service collects a special charge to the extent the special charge covers the additional expense of air transportation or (2) that is provided by the Postal Service at the same postage rate or charge for mail which is neither mailed at nor addressed to an Armed Forces post office.

(f) This section shall be administered under such conditions, and under such regulations, as the Postal Service and the Secretary of Defense jointly may prescribe.

(g) In this section:

(1) The term ''military aircraft'' means an aircraft owned, operated, or chartered by the Department of Defense.

(2) The term ''United States air carrier'' has the meaning given the term ''air carrier'' in section 40102 of title 49.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 755; Pub. L. 92–469, Oct. 6, 1972, 86 Stat. 782; Pub. L. 96–70, title I, §1331(e)(2), Sept. 27, 1979, 93 Stat. 482; Pub. L. 98–443, §9(g)(1), Oct. 4, 1984, 98 Stat. 1707; Pub. L. 101–384, Sept. 18, 1990, 104 Stat. 737; Pub. L. 101–509, title VI, §631(a), Nov. 5, 1990, 104 Stat. 1480; Pub. L. 101–510, div. A, title XI, §1113, Nov. 5, 1990, 104 Stat. 1636; Pub. L. 102–484, div. A, title X, §1051(b)(3), Oct. 23, 1992, 106 Stat. 2498; Pub. L. 103–160, div. A, title III, §364, Nov. 30, 1993, 107 Stat. 1628; Pub. L. 103–272, §5(k)(1), July 5, 1994, 108 Stat. 1375; Pub. L. 106–398, §1 [[div. A], title X, §1088], Oct. 30, 2000, 114 Stat. 1654, 1654A–294; Pub. L. 108–375, div. A, title X, §1071, Oct. 28, 2004, 118 Stat. 2056.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–375, §1071(a)(1), substituted ''title 49, or on military aircraft at rates not to exceed those so fixed and determined for scheduled United States air carriers,'' for ''title 49,'' in introductory provisions and ''carriers and military aircraft'' for ''carriers'' in two places in concluding provisions.

Subsec. (c). Pub. L. 108–375, §1071(a)(2), in first sentence, substituted ''title 49, or on military aircraft at rates not to exceed those so fixed and determined for scheduled United States air carriers,'' for ''title 49,'' and, in second sentence, inserted ''and military aircraft'' after ''by scheduled United States air carriers'' and substituted ''by other than scheduled United States air carriers and military aircraft'' for ''by air carriers other than scheduled United States air carriers''.

Subsec. (g). Pub. L. 108–375, §1071(b), added subsec. (g).

2000—Subsec. (b)(2), (3). Pub. L. 106–398 substituted ''the maximum size allowed by the Postal Service for fourth class parcel post (known as 'Standard Mail (B)')'' for ''100 inches in length and girth combined''.

1994—Subsecs. (b), (c). Pub. L. 103–272 substituted ''section 41901'' for ''section 1376''.

1993—Subsec. (a)(1). Pub. L. 103–160, in introductory provisions, inserted ''an individual who is'' before ''a member'' and ''or a civilian, otherwise authorized to

use postal services at Armed Forces installations, who holds a position or performs one or more functions in support of military operations, as designated by the military theater commander,'' after ''section 101 of title 10,'' and, in subpars. (A) and (B), substituted ''such individual'' for ''the member''.

1992—Subsec. (a)(1). Pub. L. 102–484 substituted ''section 101 of title 10,'' for ''section 101(4) and (22) of title 10,'' in introductory provisions.

1990—Subsec. (a). Pub. L. 101–510 substituted ''sound- or video-recorded'' for ''sound-recorded'' in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 101–510 substituted ''sound- or video-recorded'' for ''sound-recorded''.

Pub. L. 101–509, which directed that '', or temporarily deployed overseas for an operational contingency in arduous circumstances, as determined by the Secretary of Defense'' be inserted after ''belligerent'', and that ''or'' be struck out the first time it appears, was executed by making the insertion as directed but by striking out ''or'' appearing before ''serving with a friendly foreign force'' to reflect the probable intent of Congress.

Pub. L. 101–384 inserted ''engaged in temporary military operations under arduous circumstances,'' before ''or serving''.

Subsecs. (a)(2)(D), (b)(1)(A). Pub. L. 101–510 substituted ''sound- or video-recorded'' for ''sound-recorded''.

1984—Subsecs. (b), (c). Pub. L. 98–443 substituted ''Secretary of Transportation'' for ''Civil Aeronautics Board''.

1979—Subsec. (b). Pub. L. 96–70 substituted ''or the Virgin Islands,'' for ''the Virgin Islands, or the Canal Zone,''.

1972—Subsec. (b)(1). Pub. L. 92–469, § 1, substituted ''15'' for ''5'' after ''pounds'' in cl. (B), redesignated subsec. (b)(2) as (b)(1)(C), and deleted therefrom former cls. reading ''(A) in an overseas area designated by the President under subsection (a) of this section, or (B) in an isolated, hardship, or combat support area overseas, or where adequate surface transportation is not available''.

Subsec. (b)(2). Pub. L. 92–469, § 1, added subsec. (b)(2). Former subsec. (b)(2) redesignated subsec. (b)(1)(C).

Subsec. (b)(3). Pub. L. 92–469, § 1, substituted ''15'' for ''5'' after ''pounds''.

Subsecs. (c) to (f). Pub. L. 92–469, § 2, added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively.

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 OF 1979 AMENDMENT

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

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.

OPERATION DESERT SHIELD

Section 631(b) of Pub. L. 101–509 provided that: ''This section [amending this section] shall apply to military personnel participating in 'Operation Desert Shield'.''

EXECUTIVE ORDER NO. 11255

Ex. Ord. No. 11255, Nov. 1, 1965, 30 F.R. 14135, which designated Vietnam and certain waters adjacent thereto as an overseas combat area where the Armed Forces of the United States are engaged in military operations involving armed conflict with a hostile foreign force, for purposes of sections 4169 and 4303 of former Title 39, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EX. ORD. NO. 12556. DELEGATION OF FUNCTIONS TO SECRETARY OF DEFENSE

Ex. Ord. No. 12556, Apr. 16, 1986, 51 F.R. 13205, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. *Delegation of Functions*. The function conferred upon the President by section 3401(a) of title 39 of the United States Code, of designating an area for free mailing privileges, is delegated to the Secretary of Defense.

SEC. 2. *Interagency Consultation*. In performing the function delegated by this Order, the Secretary of Defense shall consult with the Secretary of State and the United States Postal Service, and with the heads of other Executive agencies as appropriate. The Secretary of Defense shall provide timely notice to the United States Postal Service of any designations or terminations of designations made under this Order.

RONALD REAGAN.

[§ 3402. Repealed. Pub. L. 96–70, title I, § 1331(e)(3)(A), Sept. 27, 1979, 93 Stat. 482]

Section, Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 757, related to mailing privileges of members of Armed Forces of the United States and of friendly foreign nations in the Canal Zone.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

§ 3403. Matter for blind and other handicapped persons

(a) The matter described in subsection (b) of this section (other than matter mailed under section 3404 of this title) may be mailed free of postage, if—

(1) the matter is for the use of the blind or other persons who cannot use or read conventionally printed material because of a physical impairment and who are certified by competent authority as unable to read normal reading material in accordance with the provisions of sections 135a and 135b of title 2;

(2) no charge, or rental, subscription, or other fee, is required for such matter or a charge, or rental, subscription, or other fee is required for such matter not in excess of the cost thereof;

(3) the matter may be opened by the Postal Service for inspection; and

(4) the matter contains no advertising.

(b) The free mailing privilege provided by subsection (a) of this section is extended to—

(1) reading matter and musical scores;

(2) sound reproductions;

(3) paper, records, tapes, and other material for the production of reading matter, musical scores, or sound reproductions;

(4) reproducers or parts thereof, for sound reproductions; and

(5) braille writers, typewriters, educational or other materials or devices, or parts thereof, used for writing by, or specifically designed or

adapted for use of, a blind person or a person having a physical impairment as described in subsection (a)(1) of this section.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 757.)

§ 3404. Unsealed letters sent by blind or physically handicapped persons

Unsealed letters sent by a blind person or a person having a physical impairment, as described in section 3403(a)(1) of this title, in raised characters or sightsaving type, or in the form of sound recordings, may be mailed free of postage.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 758.)

§ 3405. Markings

All matter relating to blind or other handicapped persons mailed under section 3403 or 3404 of this title, shall bear the words ''Free Matter for the Blind or Handicapped'', or words to that effect specified by the Postal Service, in the upper right-hand corner of the address area.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 758.)

§ 3406. Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act

(a) Balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act (individually or in bulk)—

(1) shall be carried expeditiously and free of postage; and

(2) may be mailed at a post office established outside the United States under section 406 of this title, unless such mailing is prohibited by treaty or other international agreement of the United States.

(b) As used in this section, the term ''balloting materials'' has the meaning given that term in section 107 of the Uniformed and Overseas Citizens Absentee Voting Act.

(Added Pub. L. 99–410, title II, § 201(a), Aug. 28, 1986, 100 Stat. 928.)

REFERENCES IN TEXT

The Uniformed and Overseas Citizens Absentee Voting Act, referred to in text, is Pub. L. 99–410, Aug. 28, 1986, 100 Stat. 924, as amended, which is classified principally to subchapter I–G (§ 1973ff et seq.) of chapter 20 of Title 42, The Public Health and Welfare. Section 107 of that Act is classified to section 1973ff–6 of Title 42. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 1971 of Title 42 and Tables.

EFFECTIVE DATE

Section applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99–410, set out as a note under section 1973ff of Title 42, The Public Health and Welfare.

CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

Sec.
3621. Applicability; definitions.
3622. Modern rate regulation.
[3623. Repealed.]
[3624. Repealed.]
[3625. Repealed.]
3626. Reduced Rates.[1]
3627. Adjusting free rates.
[3628. Repealed.]
3629. Reduced rates for voter registration purposes.

SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

3631. Applicability; definitions and updates.
3632. Action of the Governors.
3633. Provisions applicable to rates for competitive products.
3634. Assumed Federal income tax on competitive products.[1]

SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

3641. Market tests of experimental products.
3642. New products and transfers of products between the market-dominant and competitive categories of mail.

SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

3651. Annual reports by the Commission.
3652. Annual reports to the Commission.
3653. Annual determination of compliance.
3654. Additional financial reporting.

SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

3661. Postal Services.[1]
3662. Rate and service complaints.
3663. Appellate review.
3664. Enforcement of orders.

SUBCHAPTER VI—GENERAL

3681. Reimbursement.
3682. Size and weight limits.
3683. Uniform rates for books; films, other materials.[1]
3684. Limitations.
3685. Filing of information relating to periodical publications.
3686. Bonus authority.

SUBCHAPTER VII—MODERN SERVICE STANDARDS

3691. Establishment of modern service standards.

AMENDMENTS

2006—Pub. L. 109–435, title II, § 206, Dec. 20, 2006, 120 Stat. 3217, added chapter heading and analysis and struck out former chapter heading ''POSTAL RATES, CLASSES, AND SERVICES'' and analysis consisting of items for subchapters I to V and items 3601 to 3604, 3621 to 3629, 3641 and 3642, 3661 to 3663, and 3681 to 3685.

1998—Pub. L. 105–277, div. A, § 101(h) [title VI, § 648(b)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–528, added item 3663.

1993—Pub. L. 103–123, title VII, § 704(a)(3)(B)(ii), Oct. 28, 1993, 107 Stat. 1270, substituted ''free rates'' for ''free and reduced rates'' in item 3627 and added item 3642.

Pub. L. 103–31, § 8(h)(4), May 20, 1993, 107 Stat. 86, added item 3629.

SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

PRIOR PROVISIONS

A prior subchapter I of this chapter consisted of sections 3601 to 3604, prior to amendment by Pub. L. 109–435, title VI, § 601(a)(2), (3), Dec. 20, 2006, 120 Stat. 3238, 3239, which struck out the subchapter heading ''POSTAL RATE COMMISSION'' and sections 3601 and 3602 and renumbered sections 3603 and 3604 as sections 503 and 504 of this title, respectively, and transferred those sections to chapter 5 of this title.

[1] So in original. Does not conform to section catchline.

Section 3601, Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 759; Pub. L. 94–421, § 3(a), Sept. 24, 1976, 90 Stat. 1304; Pub. L. 103–123, title VII, § 708(c), Oct. 28, 1993, 107 Stat. 1273, related to establishment of the Postal Rate Commission.

Section 3602, Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 759, related to terms of office of the Commissioners of the Postal Rate Commission.

AMENDMENTS

2006—Pub. L. 109–435, title II, § 201(c), Dec. 20, 2006, 120 Stat. 3205, redesignated subchapter II of this chapter as this subchapter and substituted ''PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS'' for ''PERMANENT RATES AND CLASSES OF MAIL'' in subchapter heading.

§ 3621. Applicability; definitions

(a) APPLICABILITY.—This subchapter shall apply with respect to—

(1) first-class mail letters and sealed parcels;
(2) first-class mail cards;
(3) periodicals;
(4) standard mail;
(5) single-piece parcel post;
(6) media mail;
(7) bound printed matter;
(8) library mail;
(9) special services; and
(10) single-piece international mail,

subject to any changes the Postal Regulatory Commission may make under section 3642.

(b) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

(Added Pub. L. 109–435, title II, § 201(a), Dec. 20, 2006, 120 Stat. 3200.)

PRIOR PROVISIONS

A prior section 3621, Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 760, authorized the Governors to fix rates and classes, prior to repeal by Pub. L. 109–435, title II, § 201(a), Dec. 20, 2006, 120 Stat. 3200.

RATEMAKING LIMITATIONS

Pub. L. 103–123, title VII, § 704(b)(2), Oct. 28, 1993, 107 Stat. 1270, provided that:

''(A) IN GENERAL.—Except as provided in subparagraph (B), rates of postage may not be established, under subchapter II [now I] of chapter 36 of title 39, United States Code, in a manner designed to allow the United States Postal Service to receive through revenues any portion of the additional revenues (referred to in section 2401(d) of such title, as amended by paragraph (1)(E)) for which amounts are authorized to be appropriated under such section 2401(d).

''(B) EXCEPTION.—If Congress fails to appropriate an amount authorized under section 2401(d) of title 39, United States Code (as amended by paragraph (1)(E)), rates for the various classes of mail may be adjusted in accordance with the provisions of subchapter II [now I] of chapter 36 of such title (excluding section 3627 thereof) such that the resulting increase in revenues will equal the amount that Congress so failed to appropriate.''

§ 3622. Modern rate regulation

(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 18 months after the date of enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

(b) OBJECTIVES.—Such system shall be designed to achieve the following objectives, each of which shall be applied in conjunction with the others:

(1) To maximize incentives to reduce costs and increase efficiency.
(2) To create predictability and stability in rates.
(3) To maintain high quality service standards established under section 3691.
(4) To allow the Postal Service pricing flexibility.
(5) To assure adequate revenues, including retained earnings, to maintain financial stability.
(6) To reduce the administrative burden and increase the transparency of the ratemaking process.
(7) To enhance mail security and deter terrorism.
(8) To establish and maintain a just and reasonable schedule for rates and classifications, however the objective under this paragraph shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail.
(9) To allocate the total institutional costs of the Postal Service appropriately between market-dominant and competitive products.

(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

(1) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;
(2) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;
(3) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;
(4) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;
(5) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;
(6) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;
(7) the importance of pricing flexibility to encourage increased mail volume and operational efficiency;
(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;
(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing

those that do not require high degrees of reliability and speed of delivery;

(10) the desirability of special classifications for both postal users and the Postal Service in accordance with the policies of this title, including agreements between the Postal Service and postal users, when available on public and reasonable terms to similarly situated mailers, that—

(A) either—

(i) improve the net financial position of the Postal Service through reducing Postal Service costs or increasing the overall contribution to the institutional costs of the Postal Service; or

(ii) enhance the performance of mail preparation, processing, transportation, or other functions; and

(B) do not cause unreasonable harm to the marketplace.

(11) the educational, cultural, scientific, and informational value to the recipient of mail matter;

(12) the need for the Postal Service to increase its efficiency and reduce its costs, including infrastructure costs, to help maintain high quality, affordable postal services;

(13) the value to the Postal Service and postal users of promoting intelligent mail and of secure, sender-identified mail; and

(14) the policies of this title as well as such other factors as the Commission determines appropriate.

(d) REQUIREMENTS.—

(1) IN GENERAL.—The system for regulating rates and classes for market-dominant products shall—

(A) include an annual limitation on the percentage changes in rates to be set by the Postal Regulatory Commission that will be equal to the change in the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Postal Service files notice of its intention to increase rates;

(B) establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts;

(C) not later than 45 days before the implementation of any adjustment in rates under this section, including adjustments made under subsection (c)(10)—

(i) require the Postal Service to provide public notice of the adjustment;

(ii) provide an opportunity for review by the Postal Regulatory Commission;

(iii) provide for the Postal Regulatory Commission to notify the Postal Service of any noncompliance of the adjustment with the limitation under subparagraph (A); and

(iv) require the Postal Service to respond to the notice provided under clause (iii) and describe the actions to be taken to comply with the limitation under subparagraph (A);

(D) establish procedures whereby the Postal Service may adjust rates not in excess of the annual limitations under subparagraph (A); and

(E) notwithstanding any limitation set under subparagraphs (A) and (C), and provided there is not sufficient unused rate authority under paragraph (2)(C), establish procedures whereby rates may be adjusted on an expedited basis due to either extraordinary or exceptional circumstances, provided that the Commission determines, after notice and opportunity for a public hearing and comment, and within 90 days after any request by the Postal Service, that such adjustment is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

(2) LIMITATIONS.—

(A) CLASSES OF MAIL.—Except as provided under subparagraph (C), the annual limitations under paragraph (1)(A) shall apply to a class of mail, as defined in the Domestic Mail Classification Schedule as in effect on the date of enactment of the Postal Accountability and Enhancement Act.

(B) ROUNDING OF RATES AND FEES.—Nothing in this subsection shall preclude the Postal Service from rounding rates and fees to the nearest whole integer, if the effect of such rounding does not cause the overall rate increase for any class to exceed the Consumer Price Index for All Urban Consumers.

(C) USE OF UNUSED RATE AUTHORITY.—

(i) DEFINITION.—In this subparagraph, the term ''unused rate adjustment authority'' means the difference between—

(I) the maximum amount of a rate adjustment that the Postal Service is authorized to make in any year subject to the annual limitation under paragraph (1); and

(II) the amount of the rate adjustment the Postal Service actually makes in that year.

(ii) AUTHORITY.—Subject to clause (iii), the Postal Service may use any unused rate adjustment authority for any of the 5 years following the year such authority occurred.

(iii) LIMITATIONS.—In exercising the authority under clause (ii) in any year, the Postal Service—

(I) may use unused rate adjustment authority from more than 1 year;

(II) may use any part of the unused rate adjustment authority from any year;

(III) shall use the unused rate adjustment authority from the earliest year such authority first occurred and then each following year; and

(IV) for any class or service, may not exceed the annual limitation under paragraph (1) by more than 2 percentage points.

(3) REVIEW.—Ten years after the date of enactment of the Postal Accountability and En-

hancement Act and as appropriate thereafter, the Commission shall review the system for regulating rates and classes for market-dominant products established under this section to determine if the system is achieving the objectives in subsection (b), taking into account the factors in subsection (c). If the Commission determines, after notice and opportunity for public comment, that the system is not achieving the objectives in subsection (b), taking into account the factors in subsection (c), the Commission may, by regulation, make such modification or adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives.

(e) WORKSHARE DISCOUNTS.—

(1) DEFINITION.—In this subsection, the term ''workshare discount'' refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under subsection (a).

(2) SCOPE.—The Postal Regulatory Commission shall ensure that such discounts do not exceed the cost that the Postal Service avoids as a result of workshare activity, unless—

(A) the discount is—

(i) associated with a new postal service, a change to an existing postal service, or with a new work share initiative related to an existing postal service; and

(ii) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time;

(B) the amount of the discount above costs avoided—

(i) is necessary to mitigate rate shock; and

(ii) will be phased out over time;

(C) the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value; or

(D) reduction or elimination of the discount would impede the efficient operation of the Postal Service.

(3) LIMITATION.—Nothing in this subsection shall require that a work share discount be reduced or eliminated if the reduction or elimination of the discount would—

(A) lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced or eliminated; or

(B) result in a further increase in the rates paid by mailers not able to take advantage of the discount.

(4) REPORT.—Whenever the Postal Service establishes a workshare discount rate, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report that—

(A) explains the Postal Service's reasons for establishing the rate;

(B) sets forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate; and

(C) certifies that the discount will not adversely affect rates or services provided to users of postal services who do not take advantage of the discount rate.

(f) TRANSITION RULE.—For the 1-year period beginning on the date of enactment of this section, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of enactment of this section. Proceedings initiated to consider a request for a recommended decision filed by the Postal Service during that 1-year period shall be completed in accordance with subchapter II of chapter 36 of this title and implementing regulations, as in effect before the date of enactment of this section.

(Added Pub. L. 109–435, title II, § 201(a), Dec. 20, 2006, 120 Stat. 3201.)

REFERENCES IN TEXT

The date of enactment of this section and the date of enactment of the Postal Accountability and Enhancement Act, referred to in subsecs. (a), (d)(2)(A), (3), and (f), are the date of enactment of Pub. L. 109–435, which was approved Dec. 20, 2006.

PRIOR PROVISIONS

A prior section 3622, Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 760; Pub. L. 94–421, § 10, Sept. 24, 1976, 90 Stat. 1311; Pub. L. 105–241, § 5, Sept. 28, 1998, 112 Stat. 1573; Pub. L. 106–384, § 1(a), Oct. 27, 2000, 114 Stat. 1460, related to rates and fees, prior to repeal by Pub. L. 109–435, title II, § 201(a), Dec. 20, 2006, 120 Stat. 3200.

[§§ 3623 to 3625. Repealed. Pub. L. 109–435, title II, § 201(b), Dec. 20, 2006, 120 Stat. 3205]

Section 3623, Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 761; Pub. L. 94–421, § 8, Sept. 24, 1976, 90 Stat. 1310, related to mail classification.

Section 3624, Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 761; Pub. L. 94–421, § 5(a), Sept. 24, 1976, 90 Stat. 1306, related to recommended decisions of the Postal Rate Commission.

Section 3625, Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 762; Pub. L. 103–123, title VII, § 708(d), Oct. 28, 1993, 107 Stat. 1273, related to action of the Board of Governors of the Postal Service.

§ 3626. Reduced rates

(a)(1) Except as otherwise provided in this section, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with section 3622.

(2) For the purpose of this subsection, the term ''regular-rate category'' means any class of mail or kind of mailer, other than a class or kind referred to in section 2401(c).

(3) Rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title shall be established so that postage on each mailing of such mail reflects its pre-

ferred status as compared to the postage for the most closely corresponding regular-rate category mailing.

(4)(A) Except as specified in subparagraph (B), rates of postage for a class of mail or kind of mailer under former section 4358 (d) or (e) of this title shall be established so that postage on each mailing of such mail shall be as nearly as practicable 5 percent lower than the postage for a corresponding regular-rate category mailing.

(B) With respect to the postage for the advertising pound portion of any mail matter under former section 4358 (d) or (e) of this title, the 5-percent discount specified in subparagraph (A) shall not apply if the advertising portion exceeds 10 percent of the publication involved.

(5) The rates for any advertising under former section 4358(f) of this title shall be equal to 75 percent of the rates for advertising contained in the most closely corresponding regular-rate category of mail.

(6) The rates for mail matter under former sections 4452 (b) and (c) of this title shall be established as follows:

(A) The estimated average revenue per piece to be received by the Postal Service from each subclass of mail under former sections 4452 (b) and (c) of this title shall be equal, as nearly as practicable, to 60 percent of the estimated average revenue per piece to be received from the most closely corresponding regular-rate subclass of mail.

(B) For purposes of subparagraph (A), the estimated average revenue per piece of each regular-rate subclass shall be calculated on the basis of expected volumes and mix of mail for such subclass at current rates in the test year of the proceeding.

(C) Rate differentials within each subclass of mail matter under former sections 4452 (b) and (c) shall reflect the policies of this title, including the factors set forth in section 3622(b) of this title.

(7) The rates for mail matter under former sections 4554 (b) and (c) of this title shall be established so that postage on each mailing of such mail shall be as nearly as practicable 5 percent lower than the postage for a corresponding regular-rate mailing.

(b)(1) For the purposes of this title, the term ''periodical publications'', as used in former section 4351 of this title, includes (A) any catalog or other course listing, including mail announcements of legal texts which are part of post-bar admission education issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education; and (B) any looseleaf page or report (including any index, instruction for filing, table, or sectional identifier which is an integral part of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

(2) Any material described in paragraph (1) of this subsection shall qualify to be entered and mailed as second class mail in accordance with the applicable provisions of former section 4352 through former section 4357 of this title.

(3) For purposes of this subsection, the term ''institution of higher education'' has the meaning given it by section 101 of the Higher Education Act of 1965, and includes a nonprofit organization that coordinates a network of college-level courses that is sponsored primarily by nonprofit educational institutions for an older adult constituency.

(c) In the administration of this section, one conservation publication published by an agency of a State which is responsible for management and conservation of the fish or wildlife resources of such State shall be considered a publication of a qualified nonprofit organization which qualifies for rates of postage under former section 4358(d) of this title.

(d)(1) For purposes of this title, the term ''agricultural'', as used in former sections 4358(j)(2), 4452(d), and 4554(b)(1)(B) of this title, includes the art or science of cultivating land, harvesting crops or marine resources, or raising of livestock.

(2) In the administration of this section, and for purposes of former sections 4358(j)(2), 4452(d), and 4554(b)(1)(B) of this title, agricultural organizations or associations shall include any organization or association which collects and disseminates information or materials relating to agricultural pursuits.

(e)(1) In the administration of this section, the rates for third-class mail matter mailed by a qualified political committee shall be the rates currently in effect under former section 4452 of this title for third-class mail matter mailed by a qualified nonprofit organization.

(2) For purposes of this subsection—

(A) the term ''qualified political committee'' means a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic National Congressional Committee, and the National Republican Congressional Committee;

(B) the term ''national committee'' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level; and

(C) the term ''State committee'' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level.

(f) In the administration of this chapter, the rates for mail under former section 4358(g) of this title shall be established without regard to either the provisions of such former section 4358(g) or the provisions of this section.

(g)(1) In the administration of this section, the rates for mail under subsections (a), (b), and (c) of former section 4358 of this title shall not apply to an issue of a publication if the number of copies of such issue distributed within the county of publication is less than the number equal to the sum of 50 percent of the total paid circulation of such issue plus one.

(2) Paragraph (1) of this subsection shall not apply to an issue of a publication if the total paid circulation of such issue is less than 10,000 copies.

(3) For purposes of this section and former section 4358(a) through (c) of this title, those copies of an issue of a publication entered within the county in which it is published, but distributed

outside such county on postal carrier routes originating in the county of publication, shall be treated as if they were distributed within the county of publication.

(4)(A) In the case of an issue of a publication, any number of copies of which are mailed at the rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title, any copies of such issue which are distributed outside the county of publication (excluding any copies subject to paragraph (3)) shall be subject to rates of postage provided for under this paragraph.

(B) The rates of postage applicable to mail under this paragraph shall be established in accordance with section 3622.

(C) This paragraph shall not apply with respect to an issue of a publication unless the total paid circulation of such issue outside the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000.

(h) In the administration of this section, the number of copies of a subscription publication mailed to nonsubscribers during a calendar year at rates under subsections (a), (b), and (c) of former section 4358 of this title may not exceed 10 percent of the number of copies of such publication mailed at such rates to subscribers.

[(i) Repealed. Pub. L. 103–123, title VII, § 704(a)(3)(A), Oct. 28, 1993, 107 Stat. 1269.]

(j)(1) In the administration of this section, the rates for mail under former section 4452(b) or 4452(c) of this title shall not apply to mail which advertises, promotes, offers, or, for a fee or consideration, recommends, describes, or announces the availability of—

(A) any credit, debit, or charge card, or similar financial instrument or account, provided by or through an arrangement with any person or organization not authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title;

(B) any insurance policy, unless the organization which promotes the purchase of such policy is authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title, the policy is designed for and primarily promoted to the members, donors, supporters, or beneficiaries of the organization, and the coverage provided by the policy is not generally otherwise commercially available;

(C) any travel arrangement, unless the organization which promotes the arrangement is authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title, the travel contributes substantially (aside from the cultivation of members, donors, or supporters, or the acquisition of income or funds) to one or more of the purposes which constitutes the basis for the organization's authorization to mail at such rates, and the arrangement is designed for and primarily promoted to the members, donors, supporters, or beneficiaries of the organization; or

(D) any product or service (other than any to which subparagraph (A), (B), or (C) relates), if—

(i) the sale of such product or the providing of such service is not substantially related (aside from the need, on the part of the organization promoting such product or service, for income or funds or the use it makes of the profits derived) to the exercise or performance by the organization of one or more of the purposes constituting the basis for the organization's authorization to mail at such rates; or

(ii) the mail matter involved is part of a cooperative mailing (as defined under regulations of the Postal Service) with any person or organization not authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title;

except that—

(I) any determination under clause (i) that a product or service is not substantially related to a particular purpose shall be made under regulations which shall be prescribed by the Postal Service and which shall be consistent with standards established by the Internal Revenue Service and the courts with respect to subsections (a) and (c) of section 513 of the Internal Revenue Code of 1986; and

(II) clause (i) shall not apply if the product involved is a periodical publication described in subsection (m)(2) (including a subscription to receive any such publication); and

(III) clause (i) shall not apply to space advertising in mail matter that otherwise qualifies for rates under former section 4452(b) or 4452(c) of this title, and satisfies the content requirements established by the Postal Service for periodical publications: *Provided*, That such changes in law shall take effect immediately and shall stay in effect hereafter unless the Congress enacts legislation on this matter prior to October 1, 1995.

(2) Matter shall not be excluded from being mail at the rates for mail under former section 4452(b) or 4452(c) of this title, by an organization authorized to mail at those rates solely because—

(A) such matter contains, but is not primarily devoted to, acknowledgements of organizations or individuals who have made donations to the authorized organization; or

(B) such matter contains, but is not primarily devoted to, references to and a response card or other instructions for making inquiries concerning services or benefits available as a result of membership in the authorized organization: *Provided*, That advertising, promotional, or application materials specifically concerning such services or benefits are not included.

(3)(A) Upon request, an organization authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title shall furnish evidence to the Postal Service concerning the eligibility of any of its mail matter or mailings to be sent at those rates.

(B) The Postal Service shall establish procedures to carry out this paragraph, including procedures for mailer certification of compliance with the conditions specified in paragraph (1)(D) or subsection (m), as applicable, and verification of such compliance.

(k)(1) No person or organization shall mail, or cause to be mailed by contractual agreement or

otherwise, at the rates for mail under former section 4452(b) or 4452(c) of this title, any matter to which those rates do not apply.

(2) The Postal Service may assess a postage deficiency in the amount of the unpaid postage against any person or organization which violates paragraph (1) of this subsection. This assessment shall be deemed the final decision of the Postal Service, unless the party against whom the deficiency is assessed appeals it in writing within thirty days to the postmaster of the office where the mailing was entered. Such an appeal shall be considered by an official designated by the Postal Service, other than the postmaster of the office where the mailing was entered, who shall issue a decision as soon as practicable. This decision shall be deemed final unless the party against whom the deficiency was assessed appeals it in writing within thirty days to a further reviewing official designated by the Postal Service, who shall issue the final decision on the matter.

(3) The Postal Service shall maintain procedures for the prompt collection of postage deficiencies arising from the violation of paragraph (1) of this subsection, and may in its discretion, follow the issuance of a final decision regarding a deficiency under paragraph (2) of this subsection deduct the amount of that deficiency incurred during the previous 12 months from any postage accounts or other monies of the violator in its possession.

(*l*) In the administration of this section, the term ''advertising'', as used in former section 4358(j)(2) of this title, does not include the publisher's own advertising in a publication published by the official highway or development agency of a State.

(m)(1) In the administration of this section, the rates for mail under former section 4452(b) or 4452(c) of this title shall not apply to mail consisting of products, unless such products—

(A) were received by the organization as gifts or contributions; or

(B) are low cost articles (as defined by section 513(h)(2) of the Internal Revenue Code of 1986).

(2) Paragraph (1) shall not apply with respect to a periodical publication of a qualified nonprofit organization.

(n) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 762; Pub. L. 93–328, § 1, June 30, 1974, 88 Stat. 287; Pub. L. 94–421, § 11, Sept. 24, 1976, 90 Stat. 1311; Pub. L. 95–593, § 11(c), Nov. 4, 1978, 92 Stat. 2538; Pub. L. 99–272, title XV, §§ 15102(b)(1), (c), 15104, 15105, Apr. 7, 1986, 100 Stat. 330, 331; Pub. L. 99–509, title VI, § 6003(a), Oct. 21, 1986, 100 Stat. 1933; Pub. L. 101–509, title II, §§ 1(a), 3, Nov. 5, 1990, 104 Stat. 1397, 1399; Pub. L. 102–141, title II, Oct. 28, 1991, 105 Stat. 842, 843; Pub. L. 103–123, title VII, §§ 704(a)(1), (3)(A), 705(a)–(c), 708(e), Oct. 28, 1993, 107 Stat. 1267, 1269, 1271, 1273; Pub. L. 103–329, title VI, § 639, Sept. 30, 1994, 108 Stat. 2432; Pub. L. 104–255, § 2, Oct. 9, 1996, 110 Stat. 3169; Pub. L. 105–244, title I, § 102(a)(12), Oct. 7, 1998, 112 Stat. 1620; Pub. L. 106–384, §§ 1(b)–(e), 2(b), Oct. 27, 2000, 114 Stat. 1460–1462; Pub. L. 109–435, title X, § 1003, Dec. 20, 2006, 120 Stat. 3255.)

REFERENCES IN TEXT

Former sections 4351 to 4358, 4452, and 4554 of this title, referred to in text, mean those sections which were classified to former Title 39, The Postal Service, prior to the general revision and reenactment of Title 39 by Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 719.

Section 101 of the Higher Education Act of 1965, referred to in subsec. (b)(3), is classified to section 1001 of Title 20, Education.

Section 513 of the Internal Revenue Code of 1986, referred to in subsecs. (j)(1)(D)(I) and (m)(1)(B), is classified to section 513 of Title 26, Internal Revenue Code.

The phrase ''shall take effect immediately and shall stay in effect hereafter'', referred to in subsec. (j)(1)(D)(III), probably means that the provision shall take effect Sept. 30, 1994, the date of enactment of Pub. L. 103–329, which enacted subsec. (j)(1)(D)(III), and shall stay in effect after that date.

AMENDMENTS

2006—Subsec. (a)(1) to (3). Pub. L. 109–435, § 1003(1), added pars. (1) to (3) and struck out former pars. (1) to (3). Prior to amendment, par. (1) required rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title to be established in accordance with the applicable provisions of this chapter, par. (2) defined ''costs attributable'', ''regular-rate category'', and ''institutional-costs contribution'', and par. (3) required rates of postage for a class of mail or kind of mailer under former section 4358 of this title to be established in a manner such that the estimated revenues to be received by the Postal Service from such class of mail or kind of mailer were equal to certain calculated amounts.

Subsec. (g)(3), (4). Pub. L. 109–435, § 1003(2), added pars. (3) and (4).

Subsec. (n). Pub. L. 109–435, § 1003(3), added subsec. (n).

2000—Subsec. (a)(1). Pub. L. 106–384, § 2(b), substituted ''4554(b), or 4554(c)'' for ''4454(b), or 4454(c)''.

Subsec. (a)(3)(A). Pub. L. 106–384, § 1(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''Except as provided in paragraph (4) or (5), rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in a manner such that the estimated revenues to be received by the Postal Service from such class of mail or kind of mailer shall be equal to the sum of—

''(i) the estimated costs attributable to such class of mail or kind of mailer; and

''(ii) the product derived by multiplying the estimated costs referred to in clause (i) by the applicable percentage under subparagraph (B).''

Subsec. (a)(4). Pub. L. 106–384, § 1(c), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''The rates for the advertising portion of any mail matter under former section 4358(d) or 4358(e) of this title shall be equal to the rates for the advertising portion of the most closely corresponding regular-rate category of mail, except that if the advertising portion does not exceed 10 percent of the issue of the publication involved, the advertising portion shall be subject to the same rates as apply to the nonadvertising portion.''

Subsec. (a)(6). Pub. L. 106–384, § 1(d), added par. (6).

Subsec. (a)(7). Pub. L. 106–384, § 1(e), added par. (7).

1998—Subsec. (b)(3). Pub. L. 105–244 substituted ''section 101'' for ''section 1201(a)'' and struck out ''(20 U.S.C. 1141(a))'' after ''Act of 1965''.

1996—Subsec. (b)(3). Pub. L. 104–255 inserted before period '', and includes a nonprofit organization that coordinates a network of college-level courses that is

sponsored primarily by nonprofit educational institutions for an older adult constituency''.

1994—Subsec. (j)(1)(D)(III). Pub. L. 103–329 added cl. (III).

1993—Subsec. (a). Pub. L. 103–123, § 704(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

''(1) Except as provided in paragraph (2) of this subsection, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with applicable provisions of this chapter.

''(2) Rates of postage for a class of mail or kind of mailer referred to in paragraph (1) of this subsection shall be established in accordance with the requirement that the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service) shall be borne by such class of mail or kind of mailer, as the case may be: *Provided, however*, That with respect to mail under former section 4452(b) and 4452(c) of this title the preceding limitation shall apply only to rates of postage for letter shaped pieces, as such pieces are defined in the associated classification and rate schedules.''

Subsec. (i). Pub. L. 103–123, § 704(a)(3)(A), struck out subsec. (i) which defined ''reduced-rate category'' and ''regular-rate category'' and provided method for determining costs recovered by revenues plus appropriations for reduced-rate categories and for the purpose of distinguishing costs recovered from regular-rate categories and reduced-rate categories and determining appropriation requests relating to reduced-rate categories.

Subsec. (j)(1)(D). Pub. L. 103–123, § 705(a), added subpar. (D).

Subsec. (j)(3). Pub. L. 103–123, § 705(c), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (k), (*l*). Pub. L. 103–123, § 708(e), redesignated subsec. (k), defining ''advertising'', as (*l*).

Subsec. (m). Pub. L. 103–123, § 705(b), added subsec. (m).

1991—Subsec. (a)(2). Pub. L. 102–141 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Rates of postage for a class of mail or kind of mailer referred to in paragraph (1) of this subsection shall be established in accordance with the requirement that the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service) shall be borne by such class of mail or kind of mailer, as the case may be.''

Subsec. (i)(2). Pub. L. 102–141 inserted ''Subject to the requirements of section 2401(c) of this title and paragraph (a)(2) of this section with respect to mail under former sections 4452(b) and 4452(c) of this title,'' before ''This subsection''.

1990—Subsec. (j). Pub. L. 101–509, § 1(a), added subsec. (j).

Subsec. (k). Pub. L. 101–509, § 3, added subsec. (k) defining ''advertising''.

Pub. L. 101–509, § 1(a), added subsec. (k) relating to mailing of matter at inapplicable rates.

1986—Subsec. (a). Pub. L. 99–272, § 15102(b)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''If the rates of postage for any class of mail or kind of mailer under former sections 4358, 4359, 4421, 4422, 4452, or 4554 of this title, as such rates existed on the effective date of this subchapter, are, on the effective date of the first rate decision under this subchapter affecting that class or kind, less than the rates established by such decision, a separate rate schedule shall be adopted for that class or kind effective each time rates are established or changed under this subchapter, with annual increases as nearly equal as practicable, so that—

''(1) the revenues received from rates for mail under former sections 4358, 4452(b) and (c), 4554(b) and (c) shall not, on and after the first day of the sixteenth year following the effective date of the first rate decision applicable to that class or kind, exceed the direct and indirect postal costs attributable to mail of such class or kind (excluding all other costs of the Postal Service);

''(2) the rates for mail under former sections 4359, 4421, 4422, and 4554(a) shall be equal, on and after the first day of the eighth year following the effective date of the first rate decision applicable to that class or kind, to the rates that would have been in effect for such mail if this subparagraph had not been enacted; and

''(3) the rates for mail under former section 4452(a) shall be equal, on and after the first day of the fifth year following the effective date of the first rate decision applicable to that class or kind, to the rates that would have been in effect for such mail if this subparagraph had not been enacted.

No person who would have been entitled to mail matter under former section 4359 of this title shall mail such matter at the rates provided under this subsection unless he files annually with the Postal Service a written request for permission to mail matter at such rates.''

Subsec. (f). Pub. L. 99–272, § 15102(c), added subsec. (f).

Subsec. (g). Pub. L. 99–272, § 15104, added subsec. (g).

Subsec. (h). Pub. L. 99–272, § 15105, added subsec. (h).

Subsec. (i). Pub. L. 99–509 added subsec. (i).

1978—Subsec. (e). Pub. L. 95–593 added subsec. (e).

1976—Pub. L. 94–421 designated existing provisions as subsec. (a) and added subsecs. (b) to (d).

1974—Pub. L. 93–328 substituted ''sixteenth'' for ''tenth'' year in subpar. (1), substituted ''under former sections'' for ''under sections'', ''eighth'' for ''fifth'' year, and ''subparagraph'' for ''subsection'' and struck out reference to section ''4452(a)'' after ''4422,'' in subpar. (2), and added subpar. (3).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 704(c)(1) of Pub. L. 103–123 provided that: ''The amendments made by subsection (a) [enacting section 3642 of this title and amending this section and section 3627 of this title] shall apply with respect to rates for mail sent after September 30, 1993.''

Section 705(d) of Pub. L. 103–123 provided that: ''The amendments made by this section [amending this section] shall apply with respect to mail sent, and the rates for mail sent, after December 31, 1993.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1(a) of Pub. L. 101–509 effective 90 days after Nov. 5, 1990, see section 1(c) of Pub. L. 101–509, set out as a note under section 2401 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Section 6003(c) of Pub. L. 99–509 provided that: ''The amendments made by this section [amending this section and section 2401 of this title] shall take effect on January 1, 1989, or on the effective date of the next general change in rates and fees under sections 3622 and 3625 of title 39, United States Code [Apr. 3, 1988, see 53 F.R. 10014], whichever is sooner.''

Section 15102(b)(2) of Pub. L. 99–272 provided that: ''The amendment made by this subsection [amending this section] shall apply with respect to rates of postage taking effect after December 31, 1985.''

RELIEF OF CERTAIN PERIODICAL PUBLICATIONS

Pub. L. 104–52, title V, § 527, Nov. 19, 1995, 109 Stat. 496, provided that: ''For mail classification purposes under section 3626 of title 39, United States Code, and any regulations of the United States Postal Service for the administration of that section, a weekly second-class periodical publication which—

''(i) is eligible to publish legal notices under any applicable laws of the State where it is published;

''(ii) is eligible to be mailed at the rates for mail under former subsection 4358(a), (b), and (c) of title 39, United States Code, as limited by current subsection 3626(g) of that title; and

''(iii) the pages of which were customarily secured by 2 staples before March 19, 1989;

shall not be considered to be a bound publication solely because its pages continue to be secured by 2 staples after that date.''

FORBEARANCE REGARDING CERTAIN POSTAGE DEFICIENCIES

Section 2 of Pub. L. 101–509 provided that:

''(a) IN GENERAL.—The United States Postal Service may forbear from the collection of any postage deficiency assessed against an organization authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of title 39, United States Code, if the assessment of that deficiency arises from a violation of the cooperative mailing regulations of the Postal Service set forth at section 625.5 of the Domestic Mail Manual, and the Postal Service has made no determination that the organization knowingly or willfully violated such regulations. If any organizations authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of title 39, United States Code, has paid on its own behalf all or part of a postage deficiency which the Postal Service would forbear from collecting under this section, the Postal Service may refund to that organization the amount which it has paid.

''(b) EFFECTIVE DATE AND APPLICABILITY.—The provisions of this section shall become effective on the date of enactment of this Act [Nov. 5, 1990], and shall apply to mailings which were sent on or between July 1, 1986, and the effective date of this section.''

CONSTRUCTION RESPECTING POSTAGE RATES REDUCTION UNAUTHORIZED

Section 2 of Pub. L. 93–328 provided that: ''Nothing in section 1 of this Act [amending this section] shall be construed to authorize a reduction in any rate of postage in effect and being paid on the date of enactment of this Act [June 30, 1974].''

§ 3627. Adjusting free rates

If Congress fails to appropriate an amount authorized under section 2401(c) of this title for any class of mail sent free of postage under section 3217 or 3403–3406[1] the rate for that class may be adjusted in accordance with the provisions of this subchapter so that the increased revenues received from the users of such class will equal the amount for that class that the Congress was to appropriate.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 763; Pub. L. 95–593, § 11(b), Nov. 4, 1978, 92 Stat. 2538; Pub. L. 99–410, title II, § 201(b)(3), Aug. 28, 1986, 100 Stat. 928; Pub. L. 103–31, § 8(h)(3), May 20, 1993, 107 Stat. 86; Pub. L. 103–123, title VII, § 704(a)(3)(B)(i), Oct. 28, 1993, 107 Stat. 1269; Pub. L. 109–435, title X, § 1010(g)(5), Dec. 20, 2006, 120 Stat. 3263.)

AMENDMENTS

2006—Pub. L. 109–435 inserted section catchline and struck out former catchline which read the same.

1993—Pub. L. 103–123 substituted ''free rates'' for ''free and reduced rates'' in section catchline and ''sent free of postage under section 3217 or 3403–3406'' for ''sent at a free or reduced rate under section 3217, 3403–3406, 3626, or 3629 of this title,'' in text.

Pub. L. 103–31 substituted ''3626, or 3629 of this title'' for ''or 3626 of this title,''.

1986—Pub. L. 99–410 substituted ''3406'' for ''3405'' and struck out ''under the Federal Voting Assistance Act of 1955, or under the Overseas Citizens Voting Rights Act of 1975'' after ''3626 of this title,''.

1978—Pub. L. 95–593 inserted provisions relating to applicability of Overseas Citizens Voting Rights Act of 1975.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–123 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 a note under section 3626 of this title.

Amendment by Pub. L. 103–31 effective (1) with respect to a State that, on May 20, 1993, has a provision in the constitution of the State that would preclude compliance with section 1973gg et seq. of Title 42, The Public Health and Welfare, unless the State maintained separate Federal and State official lists of eligible voters, on the later of Jan. 1, 1996, or the date that is 120 days after the date by which, under the constitution of the State as in effect on May 20, 1993, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit compliance with section 1973gg et seq. of Title 42 without requiring a special election, and (2) with respect to a State not described above, on Jan. 1, 1995, see section 13 of Pub. L. 103–31, set out as an Effective Date note under section 1973gg of Title 42.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–410 applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99–410, set out as an Effective Date note under section 1973ff of Title 42, The Public Health and Welfare.

[§ 3628. Repealed. Pub. L. 109–435, title II, § 201(b), Dec. 20, 2006, 120 Stat. 3205]

Section, Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 763; Pub. L. 98–620, title IV, § 402(37), Nov. 8, 1984, 98 Stat. 3360, related to appellate review of a decision of the Board of Governors to approve, allow under protest, reject, or modify a recommended decision of the Postal Rate Commission.

§ 3629. Reduced rates for voter registration purposes

The Postal Service shall make available to a State or local voting registration official the rate for any class of mail that is available to a qualified nonprofit organization under section 3626 for the purpose of making a mailing that the official certifies is required or authorized by the National Voter Registration Act of 1993.

(Added Pub. L. 103–31, § 8(h)(1), May 20, 1993, 107 Stat. 86.)

REFERENCES IN TEXT

The National Voter Registration Act of 1993, referred to in text, is Pub. L. 103–31, May 20, 1993, 107 Stat. 77, as amended, which is classified principally to subchapter I–H (§ 1973gg et seq.) of chapter 20 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1971 of Title 42 and Tables.

EFFECTIVE DATE

Section effective (1) with respect to a State that, on May 20, 1993, has a provision in the constitution of the State that would preclude compliance with section 1973gg et seq. of Title 42, The Public Health and Welfare, unless the State maintained separate Federal and State official lists of eligible voters, on the later of Jan. 1, 1996, or the date that is 120 days after the date by which, under the constitution of the State as in ef-

[1] So in original. Probably should be followed by ''of this title,''.

fect on May 20, 1993, it would be legally possible to adopt and place into effect any amendments to the constitution of the State that are necessary to permit compliance with section 1973gg et seq. of Title 42 without requiring a special election, and (2) with respect to a State not described above, on Jan. 1, 1995, see section 13 of Pub. L. 103–31, set out as a note under section 1973gg of Title 42.

SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

PRIOR PROVISIONS

A prior subchapter II was redesignated subchapter I of this chapter.

§ 3631. Applicability; definitions and updates

(a) APPLICABILITY.—This subchapter shall apply with respect to—

(1) priority mail;
(2) expedited mail;
(3) bulk parcel post;
(4) bulk international mail; and
(5) mailgrams;

subject to subsection (d) and any changes the Postal Regulatory Commission may make under section 3642.

(b) DEFINITION.—For purposes of this subchapter, the term ''costs attributable'', as used with respect to a product, means the direct and indirect postal costs attributable to such product through reliably identified causal relationships.

(c) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

(Added Pub. L. 109–435, title II, § 202, Dec. 20, 2006, 120 Stat. 3205.)

§ 3632. Action of the Governors

(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.—The Governors, with the concurrence of a majority of all of the Governors then holding office, shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

(b) PROCEDURES.—

(1) IN GENERAL.—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

(2) RATES OR CLASSES OF GENERAL APPLICABILITY.—In the case of rates or classes of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the Governors' proceedings in connection with such decision to be published in the Federal Register at least 30 days before the effective date of any new rates or classes.

(3) RATES OR CLASSES NOT OF GENERAL APPLICABILITY.—In the case of rates or classes not of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the proceedings in connection with such decision to be filed with the Postal Regulatory Commission by such date before the effective date of any new rates or classes as the Governors consider appropriate, but in no case less than 15 days.

(4) CRITERIA.—As part of the regulations required under section 3633, the Postal Regulatory Commission shall establish criteria for determining when a rate or class established under this subchapter is or is not of general applicability in the Nation as a whole or in any substantial region of the Nation.

(c) TRANSITION RULE.—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of enactment of this section.

(Added Pub. L. 109–435, title II, § 202, Dec. 20, 2006, 120 Stat. 3206.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (c), is the date of enactment of Pub. L. 109–435, which was approved Dec. 20, 2006.

§ 3633. Provisions applicable to rates for competitive products

(a) IN GENERAL.—The Postal Regulatory Commission shall, within 18 months after the date of enactment of this section, promulgate (and may from time to time thereafter revise) regulations to—

(1) prohibit the subsidization of competitive products by market-dominant products;

(2) ensure that each competitive product covers its costs attributable; and

(3) ensure that all competitive products collectively cover what the Commission determines to be an appropriate share of the institutional costs of the Postal Service.

(b) REVIEW OF MINIMUM CONTRIBUTION.—Five years after the date of enactment of this section, and every 5 years thereafter, the Postal Regulatory Commission shall conduct a review to determine whether the institutional costs contribution requirement under subsection (a)(3) should be retained in its current form, modified, or eliminated. In making its determination, the Commission shall consider all relevant circumstances, including the prevailing competitive conditions in the market, and the degree to which any costs are uniquely or disproportionately associated with any competitive products.

(Added Pub. L. 109–435, title II, § 202, Dec. 20, 2006, 120 Stat. 3206.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in text, is the date of enactment of Pub. L. 109–435, which was approved Dec. 20, 2006.

STUDY ON EQUAL APPLICATION OF LAWS TO COMPETITIVE PRODUCTS

Pub. L. 109–435, title VII, § 703, Dec. 20, 2006, 120 Stat. 3244, provided that:

''(a) IN GENERAL.—The Federal Trade Commission shall prepare and submit to the President and Con-

gress, and to the Postal Regulatory Commission, within 1 year after the date of enactment of this Act [Dec. 20, 2006], a comprehensive report identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and to private companies providing similar products.

''(b) RECOMMENDATIONS.—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal differences to an end, and in the interim, to account under section 3633 of title 39, United States Code (as added by this Act), for the net economic effects provided by those laws.

''(c) CONSULTATION.—In preparing its report, the Federal Trade Commission shall consult with the United States Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received under this subsection.

''(d) COMPETITIVE PRODUCT REGULATION.—The Postal Regulatory Commission shall take into account the recommendations of the Federal Trade Commission, and subsequent events that affect the continuing validity of the estimate of the net economic effect, in promulgating or revising the regulations required under section 3633 of title 39, United States Code.''

§ 3634. Assumed Federal income tax on competitive products income

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''assumed Federal income tax on competitive products income'' means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service's assumed taxable income from competitive products for the year; and

(2) the term ''assumed taxable income from competitive products'', with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

(b) COMPUTATION AND TRANSFER REQUIREMENTS.—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a)—

(1) compute its assumed Federal income tax on competitive products income for such year; and

(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

(c) DEADLINE FOR TRANSFERS.—Any transfer required to be made under this section for a year shall be due on or before the January 15th next occurring after the close of such year.

(Added Pub. L. 109–435, title IV, § 402, Dec. 20, 2006, 120 Stat. 3226.)

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (a), is classified to Title 26, Internal Revenue Code.

SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

AMENDMENTS

2006—Pub. L. 109–435, title II, § 203, Dec. 20, 2006, 120 Stat. 3207, substituted ''PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS'' for ''TEMPORARY RATES AND CLASSES'' in subchapter heading.

§ 3641. Market tests of experimental products

(a) AUTHORITY.—

(1) IN GENERAL.—The Postal Service may conduct market tests of experimental products in accordance with this section.

(2) PROVISIONS WAIVED.—A product shall not, while it is being tested under this section, be subject to the requirements of sections 3622, 3633, or 3642, or regulations promulgated under those sections.

(b) CONDITIONS.—A product may not be tested under this section unless it satisfies each of the following:

(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

(2) MARKET DISRUPTION.—The introduction or continued offering of the product will not create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer, particularly in regard to small business concerns (as defined under subsection (h)).

(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market-dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3)[1] (relating to provisions applicable to competitive products collectively). Any test that solely affects products currently classified as competitive, or which provides services ancillary to only competitive products, shall be presumed to be in the competitive product category without regard to whether a similar ancillary product exists for market-dominant products.

(c) NOTICE.—

(1) IN GENERAL.—At least 30 days before initiating a market test under this section, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register a notice—

(A) setting out the basis for the Postal Service's determination that the market test is covered by this section; and

(B) describing the nature and scope of the market test.

(2) SAFEGUARDS.—For a competitive experimental product, the provisions of section

[1] So in original. Probably should be section ''3633(a)(3)''.

504(g) shall be available with respect to any information required to be filed under paragraph (1) to the same extent and in the same manner as in the case of any matter described in section 504(g)(1). Nothing in paragraph (1) shall be considered to permit or require the publication of any information as to which confidential treatment is accorded under the preceding sentence (subject to the same exception as set forth in section 504(g)(3)).

(d) DURATION.—

(1) IN GENERAL.—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

(2) EXTENSION AUTHORITY.—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

(e) DOLLAR-AMOUNT LIMITATION.—

(1) IN GENERAL.—A product may only be tested under this section if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $10,000,000 in any year, subject to paragraph (2) and subsection (g). In carrying out the preceding sentence, the Postal Regulatory Commission may limit the amount of revenues the Postal Service may obtain from any particular geographic market as necessary to prevent market disruption (as defined under subsection (b)(2)).

(2) EXEMPTION AUTHORITY.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

(A) the product is likely to benefit the public and meet an expected demand;

(B) the product is likely to contribute to the financial stability of the Postal Service; and

(C) the product is not likely to result in unfair or otherwise inappropriate competition.

(f) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails, with respect to any particular product, to meet 1 or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

(g) ADJUSTMENT FOR INFLATION.—For purposes of each year following the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

(h) DEFINITION OF A SMALL BUSINESS CONCERN.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

(i) EFFECTIVE DATE.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a).

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 763; Pub. L. 94–421, § 6(a), Sept. 24, 1976, 90 Stat. 1306; Pub. L. 109–435, title II, § 203, Dec. 20, 2006, 120 Stat. 3207.)

REFERENCES IN TEXT

Section 3 of the Small Business Act, referred to in subsec. (h), is classified to section 632 of Title 15, Commerce and Trade.

AMENDMENTS

2006—Pub. L. 109–435 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (f) relating to temporary changes in rates and classes.

1976—Subsec. (a). Pub. L. 94–421 added subsec. (a). Former subsec. (a) redesignated (e) and amended.

Subsec. (b). Pub. L. 94–421 added subsec. (b). Former subsec. (b) redesignated (f).

Subsec. (c). Pub. L. 94–421 substituted provision limiting the temporary rate increase to an amount no greater than the permanent fee requested for that class or service, for provision which limited a temporary increase to the lesser of either the rate or fee requested or an amount more than one-third greater than the permanent fee in effect for that class or service at the time a permanent change is requested.

Subsec. (d). Pub. L. 94–421 added subsec. (d).

Subsec. (e). Pub. L. 94–421 redesignated former subsec. (a) as (e) and struck out reference to requests for decisions on change in the rates of postage or fees for postal service.

Subsec. (f). Pub. L. 94–421 redesignated former subsec. (b) as (f).

EFFECTIVE DATE

Section effective Jan. 20, 1971, pursuant to Resolution No. 71–10 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.

RATE CHANGE REQUEST MADE ON SEPTEMBER 18, 1975, OR UNDER DOCKET NUMBER R76–1

Section 6(b)(1) of Pub. L. 94–421 provided that: ''The amendment made by subsection (a) of this section [amending this section] shall not apply to any action or proceeding with respect to the recommended decision of the Postal Rate Commission [now Postal Regulatory Commission] relating to proposed changes in rates of postage and in fees for postal services requested on September 18, 1975, by the United States Postal Service in a request which bears, or which at any time has been included under, Postal Rate Commission Docket Number R76–1.''

APPLICABILITY OF FORMER PROVISIONS OF SECTION TO RATE CHANGE REQUEST MADE ON SEPTEMBER 18, 1975, UNDER DOCKET NUMBER R76–1

Section 6(b)(2) of Pub. L. 94–421 provided that: ''The provisions of section 3641 of title 39, United States

Code, as such provisions were in effect on the day before the date of the enactment of this Act [Sept. 24, 1976], shall apply to any temporary rate or fee established by the Postal Service pursuant to its request to the Postal Rate Commission [now Postal Regulatory Commission], dated September 18, 1975, for a recommended decision, bearing Docket Number R76–1.''

§ 3642. New products and transfers of products between the market-dominant and competitive categories of mail

(a) IN GENERAL.—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.

(b) CRITERIA.—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:

(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products. The competitive category of products shall consist of all other products.

(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding 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 Regu-

latory 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 NONCOMPLIANCE.—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 noncompliance 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, 78*o*(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;

[1] So in original. Probably should be capitalized.

(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.

(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 nonpublic 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.

(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed pursuant to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance (such as ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, or requiring the Postal Service to make up for revenue shortfalls in competitive products).

(d) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid from the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

(Added Pub. L. 109–435, title II, § 205, Dec. 20, 2006, 120 Stat. 3216.)

PRIOR PROVISIONS

A prior section 3662, Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 764, related to rate and service complaints, prior to repeal by Pub. L. 109–435, title II, § 205, Dec. 20, 2006, 120 Stat. 3216.

§ 3663. Appellate review

A person, including the Postal Service, adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission.

(Added Pub. L. 109–435, title II, § 205, Dec. 20, 2006, 120 Stat. 3217.)

PRIOR PROVISIONS

A prior section 3663, added Pub. L. 105–277, div. A, § 101(h) [title VI, § 648(a)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–527, related to annual report on international services, prior to repeal by Pub. L. 109–435, title II, § 205, Dec. 20, 2006, 120 Stat. 3216.

§ 3664. Enforcement of orders

The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.

(Added Pub. L. 109–435, title II, § 205, Dec. 20, 2006, 120 Stat. 3217.)

SUBCHAPTER VI—GENERAL

AMENDMENTS

2006—Pub. L. 109–435, title II, § 204(a)(2), Dec. 20, 2006, 120 Stat. 3210, redesignated subchapter V of this chapter as this subchapter.

§ 3681. Reimbursement

No mailer may be reimbursed for any amount paid under any rate or fee which, after such payment, is determined to have been unlawful after proceedings in accordance with the provisions of sections 3662 through 3664 of this title, or is superseded by a lower rate or fee established under subchapter II of this chapter.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 764; Pub. L. 109–435, title X, § 1010(a), Dec. 20, 2006, 120 Stat. 3261.)

AMENDMENTS

2006—Pub. L. 109–435 substituted ''sections 3662 through 3664'' for ''section 3628''.

EFFECTIVE DATE

Subchapter effective Jan. 20, 1971, pursuant to Resolution No. 71–10 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.

§ 3682. Size and weight limits

The Postal Service may establish size and weight limitations for mail matter in the market-dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 765; Pub. L. 96–70, title I, § 1331(e)(4), Sept. 27, 1979, 93 Stat. 482; Pub. L. 97–242, § 1(a), Aug. 24, 1982, 96 Stat. 300; Pub. L. 109–435, title X, § 1010(b), Dec. 20, 2006, 120 Stat. 3261.)

AMENDMENTS

2006—Pub. L. 109–435 amended section generally. Prior to amendment, section read as follows: ''The Postal Service may establish size and weight limitations for mail matter in the same manner as prescribed for changes in mail classification under subchapter II of this chapter.''

1982—Pub. L. 97–242 struck out subsecs. (a) and (b) and designation ''(c)'' before ''The Postal Service'' and in resulting undesignated paragraph substituted ''mail matter'' and ''mail classification'' for ''letter mail'' and ''classification'', respectively. Former subsecs. (a) and (b) had provided that the maximum weight of mail other than letter mail was 40 pounds, that the maximum size was 78 inches in girth and length combined before July 1, 1971, and 84 inches in girth and length combined on and after July 1, 1971, and that the maximum size on mail, other than letter mail, was 100 inches in girth and length combined and the maximum weight was 70 pounds if the mail (1) was mailed at, or addressed for delivery at, other than first-class post offices or on rural or star routes, (2) contained baby fowl, live plants, trees, shrubs, or agricultural commodities but not the manufactured products of those commodities, (3) would have been entitled to be mailed under former section 4554 of this title, (4) was addressed to or mailed at any Armed Forces post office outside the 50 States, or (5) was addressed to or mailed in the Commonwealth of Puerto Rico, the States of Alaska and Hawaii, or a possession of the United States including the Trust Territory of the Pacific Islands.

1979—Subsec. (b)(5). Pub. L. 96–70 struck out ''the Canal Zone and'' after ''United States including''.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 1(b) of Pub. L. 97–242 provided that: ''The size and weight limitations for other than letter mail established by subsections (a) and (b) of section 3682 of title 39, United States Code, as in effect on the day prior to the effective date of this section [Aug. 24, 1982], shall remain in effect until changed pursuant to section 3682 of such title, as amended, by subsection (a) of this section.''

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–70 effective Oct. 1, 1979, see section 3304 of Pub. L. 96–70, set out as an Effective Date note under section 3601 of Title 22, Foreign Relations and Intercourse.

§ 3683. Uniform rates for books; films; other materials

(a) Notwithstanding any other provision of this title, the rates of postage established for mail matter enumerated in former section 4554 of this title shall be uniform for such mail of the same weight, and shall not vary with the distance transported.

(b) The rates of postage under former section 4554(b)(1) of this title shall not be effective except with respect to mailings which—

(1) constitute materials specified in former section 4554(b)(2) of this title; and

(2) are sent between—

(A) an institution, organization, or association listed in subparagraph (A) or (B) of such former section 4554(b)(1) and any other such institution, organization, or association;

(B) an institution, organization, or association referred to in subparagraph (A) and any individual (other than an individual having a financial interest in the sale, promotion, or distribution of the materials involved);

(C) an institution, organization, or association referred to in subparagraph (A) and a qualified nonprofit organization (as defined in former section 4452(d) of this title) that is not such an institution, organization, or association; or

(D) an institution, organization, or association referred to in subparagraph (A) and a publisher, if such institution, organization, or association has placed an order to purchase such materials for delivery to such institution, organization, or association.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 765; Pub. L. 94–421, § 12, Sept. 24, 1976, 90 Stat. 1312; Pub. L. 103–123, title VII, § 706(a), Oct. 28, 1993, 107 Stat. 1272.)

REFERENCES IN TEXT

Former sections 4452 and 4554 of this title, referred to in text, mean sections 4452 and 4554 of former Title 39, The Postal Service, prior to the general revision and reenactment of Title 39 by Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 719.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–123 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The rates for mail matter specified in former section 4554(a)(1) or 4554(b)(2)(A) of this title, when mailed from a publisher or a distributor to a school, college, university, or library, shall be the rate currently in effect for such mail matter under the provisions of former section 4554(b)(1) of this title.''

1976—Pub. L. 94–421 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1993 AMENDMENT

Section 706(b) of Pub. L. 103–123 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to mail sent after September 30, 1993.''

§ 3684. Limitations

Except as provided in section 3627 of this title, no provision of this chapter shall be construed to give authority to the Governors to make any change in any provision of this title.

(Pub. L. 91–375, Aug. 12, 1970, 84 Stat. 765; Pub. L. 99–410, title II, § 201(b)(4), Aug. 28, 1986, 100 Stat. 929; Pub. L. 109–435, title X, § 1010(f), Dec. 20, 2006, 120 Stat. 3262.)

AMENDMENTS

2006—Pub. L. 109–435 substituted ''of this title'' for ''of section 3682 or 3683 or chapter 30, 32, or 34 of this title''.

1986—Pub. L. 99–410 struck out ", or of the Federal Voting Assistance Act of 1955" after "or 34 of this title".

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–410 applicable with respect to elections taking place after Dec. 31, 1987, see section 204 of Pub. L. 99–410, set out as an Effective Date note under section 1973ff of Title 42, The Public Health and Welfare.

§ 3685. Filing of information relating to periodical publications

(a) Each owner of a publication having periodical publication mail privileges shall furnish to the Postal Service at least once a year, and shall publish in such publication once a year, information in such form and detail and at such time as the Postal Service may require with respect to—

(1) the identity of the editor, managing editor, publishers, and owners;

(2) the identity of the corporation and stockholders thereof, if the publication is owned by a corporation;

(3) the identity of known bondholders, mortgagees, and other security holders;

(4) the extent and nature of the circulation of the publication, including, but not limited to, the number of copies distributed, the methods of distribution, and the extent to which such circulation is paid in whole or in part; and

(5) such other information as the Postal Service may deem necessary to determine whether the publication meets the standards for periodical publication mail privileges.

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.)

§ 3686. Bonus authority

(a) IN GENERAL.—The Postal Service may establish 1 or more programs to provide bonuses or other rewards to officers and employees of the Postal Service in senior executive or equivalent positions to achieve the objectives of this chapter.

(b) LIMITATION ON TOTAL COMPENSATION.—

(1) IN GENERAL.—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2). Any such award or bonus may not cause the total compensation of such officer or employee to exceed the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which the bonus or award is paid.

(2) APPROVAL PROCESS.—If the Postal Service wishes to have the authority, under any program described in subsection (a), to award bonuses or other rewards in excess of the limitation set forth in the last sentence of section 1003(a)—

(A) the Postal Service shall make an appropriate request to the Board of Governors of the Postal Service in such form and manner as the Board requires; and

(B) the Board of Governors shall approve any such request if the Board certifies, for the annual appraisal period involved, that the performance appraisal system for affected officers and employees of the Postal Service (as designed and applied) makes meaningful distinctions based on relative performance.

(3) REVOCATION AUTHORITY.—If the Board of Governors of the Postal Service finds that a performance appraisal system previously approved under paragraph (2)(B) does not (as designed and applied) make meaningful distinctions based on relative performance, the Board may revoke or suspend the authority of the Postal Service to continue a program approved under paragraph (2) until such time as appropriate corrective measures have, in the judgment of the Board, been taken.

(c) EXCEPTIONS FOR CRITICAL POSITIONS.—Notwithstanding any other provision of law, the Board of Governors may allow up to 12 officers or employees of the Postal Service in critical senior executive or equivalent positions to receive total compensation in an amount not to exceed 120 percent of the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which such payment is received. For each exception made under this subsection, the Board shall provide written notification to the Director of the Office of Personnel Management and the Congress within 30 days after the payment is made setting forth the name of the officer or employee involved, the critical nature of his or her duties and responsibilities, and the basis for determining that such payment is warranted.

(d) INFORMATION FOR INCLUSION IN COMPREHENSIVE STATEMENT.—Included in its comprehensive statement under section 2401(e) for any period shall be—

(1) the name of each person receiving a bonus or other payment during such period which would not have been allowable but for the provisions of subsection (b) or (c);

(2) the amount of the bonus or other payment; and

(3) the amount by which the limitation set forth in the last sentence of section 1003(a) was exceeded as a result of such bonus or other payment.

(e) REGULATIONS.—The Board of Governors may prescribe regulations for the administration of this section.

(Added Pub. L. 109–435, title V, § 506, Dec. 20, 2006, 120 Stat. 3236.)

SUBCHAPTER VII—MODERN SERVICE STANDARDS

§ 3691. Establishment of modern service standards

(a) AUTHORITY GENERALLY.—Not later than 12 months after the date of enactment of this section, the Postal Service shall, in consultation with the Postal Regulatory Commission, by regulation establish (and may from time to time thereafter by regulation revise) a set of service standards for market-dominant products.

(b) OBJECTIVES.—

(1) IN GENERAL.—Such standards shall be designed to achieve the following objectives:

(A) To enhance the value of postal services to both senders and recipients.

(B) To preserve regular and effective access to postal services in all communities, including those in rural areas or where post offices are not self-sustaining.

(C) To reasonably assure Postal Service customers delivery reliability, speed and frequency consistent with reasonable rates and best business practices.

(D) To provide a system of objective external performance measurements for each market-dominant product as a basis for measurement of Postal Service performance.

(2) Implementation of performance measurements.—With respect to paragraph (1)(D), with the approval of the Postal Regulatory Commission an internal measurement system may be implemented instead of an external measurement system.

(c) FACTORS.—In establishing or revising such standards, the Postal Service shall take into account—

(1) the actual level of service that Postal Service customers receive under any service guidelines previously established by the Postal Service or service standards established under this section;

(2) the degree of customer satisfaction with Postal Service performance in the acceptance, processing and delivery of mail;

(3) the needs of Postal Service customers, including those with physical impairments;

(4) mail volume and revenues projected for future years;

(5) the projected growth in the number of addresses the Postal Service will be required to serve in future years;

(6) the current and projected future cost of serving Postal Service customers;

(7) the effect of changes in technology, demographics, and population distribution on the efficient and reliable operation of the postal delivery system; and

(8) the policies of this title and such other factors as the Postal Service determines appropriate.

(d) REVIEW.—The regulations promulgated pursuant to this section (and any revisions thereto), and any violations thereof, shall be subject to review upon complaint under sections 3662 and 3663.

(Added Pub. L. 109–435, title III, § 301, Dec. 20, 2006, 120 Stat. 3218.)

REFERENCES IN TEXT

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

POSTAL SERVICE PLAN

Pub. L. 109–435, title III, § 302, Dec. 20, 2006, 120 Stat. 3219, provided that:

''(a) IN GENERAL.—Within 6 months after the establishment of the service standards under section 3691 of title 39, United States Code, as added by this Act, the Postal Service shall, in consultation with the Postal Regulatory Commission, develop and submit to Congress a plan for meeting those standards.

''(b) CONTENTS.—The plan under this section shall—

''(1) establish performance goals;

''(2) describe any changes to the Postal Service's processing, transportation, delivery, and retail networks necessary to allow the Postal Service to meet the performance goals;

''(3) describe any changes to planning and performance management documents previously submitted to Congress to reflect new performance goals; and

''(4) describe the long-term vision of the Postal Service for rationalizing its infrastructure and workforce, and how the Postal Service intends to implement that vision.

''(c) POSTAL FACILITIES.—

''(1) FINDINGS.—Congress finds that—

''(A) the Postal Service has more than 400 logistics facilities, separate from its post office network;

''(B) as noted by the President's Commission on the United States Postal Service, the Postal Service has more facilities than it needs and the streamlining of this distribution network can pave the way for the potential consolidation of sorting facilities and the elimination of excess costs;

''(C) the Postal Service has always revised its distribution network to meet changing conditions and is best suited to address its operational needs; and

''(D) Congress strongly encourages the Postal Service to—

''(i) expeditiously move forward in its streamlining efforts; and

''(ii) keep unions, management associations, and local elected officials informed as an essential part of this effort and abide by any procedural requirements contained in the national bargaining agreements.

''(2) IN GENERAL.—The Postal Service plan shall include a description of—

''(A) the long-term vision of the Postal Service for rationalizing its infrastructure and workforce; and

''(B) how the Postal Service intends to implement that vision.

''(3) CONTENT OF FACILITIES PLAN.—The plan under this subsection shall include—

''(A) a strategy for how the Postal Service intends to rationalize the postal facilities network and remove excess processing capacity and space from the network, including estimated timeframes, criteria, and processes to be used for making changes to the facilities network, and the process for engaging policy makers and the public in related decisions;

''(B) a discussion of what impact any facility changes may have on the postal workforce and whether the Postal Service has sufficient flexibility to make needed workforce changes;

''(C) an identification of anticipated costs, cost savings, and other benefits associated with the infrastructure rationalization alternatives discussed in the plan; and

''(D) procedures that the Postal Service will use to—

''(i) provide adequate public notice to communities potentially affected by a proposed rationalization decision;

''(ii) make available information regarding any service changes in the affected communities, any other effects on customers, any effects on postal employees, and any cost savings;

''(iii) afford affected persons ample opportunity to provide input on the proposed decision; and

''(iv) take such comments into account in making a final decision.

''(4) ANNUAL REPORTS.—

''(A) IN GENERAL.—Not later than 90 days after the end of each fiscal year, the Postal Service shall prepare and submit a report to Congress on how postal decisions have impacted or will impact rationalization plans.

''(B) CONTENTS.—Each report under this paragraph shall include—

''(i) an account of actions taken during the preceding fiscal year to improve the efficiency and effectiveness of its processing, transportation, and distribution networks while preserving the timely delivery of postal services, including overall estimated costs and cost savings;

''(ii) an account of actions taken to identify any excess capacity within its processing, transportation, and distribution networks and implement savings through realignment or consolidation of facilities including overall estimated costs and cost savings;

''(iii) an estimate of how postal decisions related to mail changes, security, automation initiatives, worksharing, information technology systems, excess capacity, consolidating and closing facilities, and other areas will impact rationalization plans;

''(iv) identification of any statutory or regulatory obstacles that prevented or will prevent or hinder the Postal Service from taking action to realign or consolidate facilities; and

''(v) such additional topics and recommendations as the Postal Service considers appropriate.

''(5) EXISTING EFFORTS.—Effective on the date of enactment of this Act [Dec. 20, 2006], the Postal Service may not close or consolidate any processing or logistics facilities without using procedures for public notice and input consistent with those described under paragraph (3)(D).

''(d) ALTERNATE RETAIL OPTIONS.—The Postal Service plan shall include plans to expand and market retail access to postal services, in addition to post offices, including—

''(1) vending machines;

''(2) the Internet;

''(3) postage meters;

''(4) Stamps by Mail;

''(5) Postal Service employees on delivery routes;

''(6) retail facilities in which overhead costs are shared with private businesses and other government agencies;

''(7) postal kiosks; or

''(8) any other nonpost office access channel providing market retail access to postal services.

''(e) REEMPLOYMENT ASSISTANCE AND RETIREMENT BENEFITS.—The Postal Service plan shall include—

''(1) a comprehensive plan under which reemployment assistance shall be afforded to employees displaced as a result of automation of any of its functions, the closing and consolidation of any of its facilities, or such other reasons as the Postal Service may determine; and

''(2) a plan, developed in consultation with the Office of Personnel Management, to offer early retirement benefits.

''(f) CONTINUED AUTHORITY.—Nothing in this section shall be construed to prohibit the Postal Service from implementing any change to its processing, transportation, delivery, and retail networks under any authority granted to the Postal Service for those purposes.''

PART V—TRANSPORTATION OF MAIL

Chap.		Sec.
50.	**General**	**5001**
[52.	**Repealed]**	**5201**
54.	**Transportation of Mail by Air**	**5401**
56.	**Transportation of Mail by Vessel**	**5601**

AMENDMENTS

2006—Pub. L. 109–435, title X, § 1002(c), Dec. 20, 2006, 120 Stat. 3255, struck out item relating to chapter 52 ''Transportation of Mail by Surface Carrier''.

CHAPTER 50—GENERAL

Sec.	
5001.	Provisions for carrying mail.
5002.	Transportation of mail of adjoining countries through the United States.
5003.	Establishment of post roads.
5004.	Discontinuance of service on post roads.
5005.	Mail transportation.
5006.	Lien on compensation of contractor.
5007.	Free transportation of postal employees.

§ 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. Notwithstanding any other provision of this title, the Postal Service may make arrangements on a temporary basis for the transportation of mail when, as determined by the Postal Service, an emergency arises. Such arrangements shall terminate when the emergency ceases and the Postal Service is promptly able to secure transportation services under other provisions of this title.

(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. See section 15(a) of Pub. L. 91–375, set out as a note preceding section 101 of this title.

§ 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