

“(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 setting 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