

### § 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),<sup>1</sup> 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”),<sup>1</sup> 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 (b), were repealed by Pub.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

Pub. L. 102-393, title VI, §631(e), Oct. 6, 1992, 106 Stat. 1776, 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

Pub. L. 102-393, title VI, §631(a)-(c), Oct. 6, 1992, 106 Stat. 1774, 1776, 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. 742f).

“(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 [enacting 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.

<sup>1</sup> See References in Text note below.

“(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 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.—