

edge 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

Pub. L. 98-186, §3(b), Nov. 30, 1983, 97 Stat. 1317, 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 considered 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<sup>1</sup> (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),<sup>1</sup> 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, commonly known as the Plant Quarantine Act, 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 Plant Quarantine Act, referred to in subsecs. (a)(1), (c), and (d)(2), were classified to sections 152 and 161, respectively, of Title 7. For complete classification of this Act to the Code, see Tables.

#### EFFECTIVE DATE

Pub. L. 100-574, §4, Oct. 31, 1988, 102 Stat. 2894, provided that:

“(a) IN GENERAL.—This Act and the amendments made by this Act [enacting this section and sections

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