

(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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3219.	Use of official mail in the location and recovery of missing children.
3220.	

Editorial Notes

AMENDMENTS

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

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

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

§ 3201. Definitions

As used in this chapter—

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

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

(3) “frank” means the autographic or facsimile signature of persons authorized by sections 3210-3216 and 3218 of this title to trans-