Regulations on the Use of the

CONGRESSIONAL FRANK

By Members of the House of Representatives

And

RULES OF PRACTICE IN PROCEEDINGS

Before the House Commission on Congressional Mailing Standards

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PREPARED BY

THE COMMISSION ON
CONGRESSIONAL MAILING STANDARDS

HOUSE OF REPRESENTATIVES

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Part I

INTRODUCTION

The House Commission on Congressional Mailing Standards, created by Public Law 93–191, is directed to issue regulations governing the proper use of the franking privilege.

These regulations govern the use of the frank under sections 3210, 3211, 3212, 3213(2), 3215, 3218, 3219, and 3220 of title 39, United States Code, which cover franked mail generally, public documents, Congressional Record and Congressional Record excerpts, U.S. Department of Agriculture seeds and reports, and the lending of the frank.

These regulations apply to any Member or Member-elect of the House, Resident Commissioner or Resident Commissioner-elect, Delegate or Delegate-elect, designated survivor of any of the foregoing, House officials, former Members and former House officials entitled to use the frank.

The law was amended on October 26, 1981, upon enactment of Public Law 97–69. The most significant changes were to enact major provisions of House Rule XLVI relating to mass mailings and to eliminate the authority to send letters of condolence and letters of congratulations for personal distinctions.

The law had also been amended in 1978, upon enactment of Public Law 95–521 and was again amended in 1982, upon enactment of Public Law 97–263, to authorize use of the frank for the Senate Legal Counsel and the Law Revision Counsel of the House, respectively.

Public Law 99–87, enacted in 1985, authorized the use of official mail to aid in the location and recovery of missing children. This Act was extended for a period of five years in December 1987.

Public Law 101–163, enacted in 1989, limited any mass mailing to two sheets of paper or their equivalent, and changed the numerical limitation on postal customer mail and restrictions on the timing of mass mailings prior to elections.

Public Law 101–520, enacted in 1990, established an "Official Mail Allowance" for each person in the House of Representatives authorized to use the frank; required that all mass mailings be submitted to the Commission

for review prior to mailing; and limited the geographic distribution of mass mailings.

Public Law 102–392, enacted in 1992, eliminated the two sheets of paper restriction on mass mailings and prohibited Members from mass mailing outside of the congressional district from which they are elected.

Public Law 104–197, enacted in 1996, requires that all mass mailings bear the following disclaimer statement: "This mailing was prepared, published and mailed at taxpayer expense." and prohibits Members from mass mailing 90 days prior to any primary or general election in which such Member is a candidate for public office.

The Commission is also directed to provide guidance, assistance, advice, and counsel through advisory opinions or consultations in connection with the mailing or contemplated mailing of franked mail. The staff assigned to the Commission is delegated authority by the Commission to perform advisory and consultatory functions, subject to review by the Commission.

The examples of frankable or nonfrankable mail matter as set forth in these regulations are based on the guidelines for franked mail matter enacted under Public Law 93–191, as amended. Any violation of the franking privilege is determined by the Commission under the procedures prescribed by section 5 of Public Law 93–191, as amended.

All section references in the following guidelines and regulations are to chapter 32 of title 39, United States Code, unless otherwise noted.

References to Rules of the House, as such, are noted.

CHAPTER ONE

WHO MAY USE THE CONGRESSIONAL FRANK

1. Entitlement To Use the Frank

The following Members of the House, officers of the House and survivors are authorized to use the frank:

(a) a Representative, Delegate, or Resident Commissioner;

(b) a Representative-elect, Delegate-elect, or Resident Commissioner-elect;

(c) the Clerk, Sergeant at Arms, CAO, and Chaplain;

(d) the Legislative Counsel of the House and the Law Revision Counsel of the House; [Note: Authority for all of the above is section 3210(b)(1).]

(e) any authorized person in the case of a vacancy in the offices of (c) or (d) above under authority of section 3210(b)(2);

(f) the designated survivor of a Representative, Delegate, or Resident Commissioner who died during his term of office, for not more than 180 days afterward, under section 3218.

2. Expiration of Franking Privilege

Under section 3210(b)(3), Representatives and others vested with the franking privilege (see paragraph 1 above) are entitled on a restricted basis to use the frank during the 90-day period immediately following the date on which they leave office.

During this period, use of the frank is limited to matters directly related to the closing of the official business of the congressional or other respective office.

A Representative may not use the franking privilege during this 90-day period to—

—mail matter with a simplified form of address (postal customer mailing);

—mail newsletters, questionnaires or other similar mass mailings;

—mail any general or other mass mailings of any nature unless such mailings are in direct response to inquiries or requests from persons to whom the matter is mailed.

4(a). Examples of Nonfrankable Items

- **Personal or biographical Matter (See Paragraphs 8, 10, 14, 16)**

—Autobiographical or biographical material of a Member, staff, or constituent is not frankable. [NOTE: An official biography of the Member may be franked in response to a specific request or to media.]

—No reports on the Member's family or family life.

—No reports on how the Member spends time other than in the performance of official duties.

—Community service or workday activities performed by the Member or staff are not official.

—No thank you notes or messages regarding election or re-election to office.

—Birthday, anniversary, wedding, birth, retirement or condolence messages and holiday greetings are prohibited.

- **Political and partisan references (See Paragraphs 7, 17)**

—Avoid excessive use of party labels. A general guideline is two references per page for each party.

—No party labels in photo caption excepting leadership titles.

—No specific references to past or future campaigns or elections, including election or re-election announcements and schedules of campaign related events.[3]

—Political cartoons or graphics are prohibited.

—Materials (i.e. photos, logos, slogans)used in campaign literature as well as specific campaign pledges or promises are not frankable.

—Members may not project themselves through an election cycle into a future Congress.

—Members may not directly or indirectly solicit a constituent's party affiliation.

—Comments critical of policy or legislation should not be partisan, politicized or personalized.

- **Solicitations, promotions or endorsements (See Paragraphs 5, 6 and 17, and Chapter One, Paragraph 5)**

—No solicitations for funds for or on behalf of *any* organization or person.

—No grassroots lobbying or soliciting support for a Member's position on a legislative, public policy or community issue. Members cannot generate or circulate a petition under the frank.

—No material that advertises, promotes, endorses or otherwise provides a benefit to an individual or organization not entitled to use the frank. This would include commerical, charitable, non-profit and political organizations as well as Congressional Member Organizations

[3] The Commission on Nov. 25, 1974, by a unanimous vote, held as not frankable comment in newsletter expressing gratitude to constituents for election to the Congress.

(CMO) and advisory boards or task forces. [NOTE: Leadership task forces or working groups are eligible for franking privileges under the Republican conference or Democratic caucus]

4(b). Examples of Frankable Items

- **Legislative duties (See Paragraphs 2, 3, 7)**

—Newsletters, reports, summaries or press releases on the Member's position on legislative or public policy issues.

—Discussions of official activities or meetings including participation in committee or subcommittee activities, official trips or tours, leadership roles.

—Tabulation of the Member's voting record or attendance record.[4]

—Follow-up letters or updates on a specific issue or to a targeted constituency are frankable.

—Members may discuss awards or honors presented in recognition of official or legislative efforts (no personal or politicial accomplishments).

—News articles, Congressional Record reprints, testimony and copies of official correspondence may be used as enclosures or excerpts provided the content complies with franking regulations.

—Questionnaires seeking public opinion on any law or proposed legislation. Opinion ballots on specific issues are permissible provided pro and con views are indicated.

—Editorial or issue-oriented cartoons which depict public issues (e.g., energy, inflation, defense) on a nonpolitical basis are frankable.

- **Official activities (See Paragraph 2)**

—Annoucements of town hall meetings, district office or neighborhood outreach hours, or constituent service events. [NOTE: Members cannot cosponsor events with an outside entity.]

—Notices of a visit to various sites in the district or a personal appearance by the Member to conduct official business. [NOTE: Members can only invite constituents to attend official events sponsored by the Member.]

—Military academy applications and appointment forums.

—Statements of financial disclosure when contained in a press release or newsletter are frankable.

- **Constituent service (See Paragraphs 8, 11, 12, 13, 23)**

—Federal laws and publications, copies of bills, the Congressional Record, Library of Congress documents, U.S. Capitol Historical Society calendars and publications purchased with federal funds. [NOTE:

[4] The Commission on Feb. 21, 1974, by a unanimous vote held as frankable a press release relating to the attendance record of a Member of the House.

There are limited exceptions for enclosing public service materials in an otherwise frankable mailing (see Chapter 3, Paragraph 3).]

—Non-partisan voting registration or election information.

—Photos and biographies of missing children provided by the National Center for Missing and Exploited Children.

—Congratulations to a person who has achieved some public distinction.

4(c). Pictures in Newsletters, News Releases, or Other Mass Mailings

Mail matter consisting of newsletters, the usual and customary congressional questionnaire, or other general mass mailings, including covering letters in connection therewith, may include as a part thereof a single picture, sketch, or other likeness of the Member appearing alone which is in reasonable proportion to the size of the page.[5]

Additionally, mass mailings may contain pictures in which other *clearly visible* persons appear with the Member. Photos in which the Member appears are limited to a maximum of two per page.

Press releases which are frankable, if mailed to the communications media, may be accompanied by photographs which are directly related to the subject matter of the press release being so mailed.

Guidelines for Pictures and Sketches

—Mail matter consisting of newsletters, press releases, questionnaires, meeting notices, agriculture and consumer pamphlets, and certain other mass mailings may contain a picture of the Member.

—Calendars, business cards, academy posters, letterhead, note paper, labels, and newspaper advertisements or inserts may not contain a picture of the Member.

—A mass mailing may contain only one picture, sketch, or likeness in which the Member appears alone. Such a picture may be positioned anywhere on any page, and may cover 6 percent of the page, not to exceed 6 square inches. A masthead-type photo does not require a caption or accompanying text.

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[5] Advisory opinion dated July 1, 1974, held as frankable the U.S. Department of Agriculture Publications List together with an explanatory cover letter containing a masthead photograph.

Advisory opinion dated Sept. 27, 1974, held as not frankable a pocket calendar one side of which was imprinted with the photograph of the Member.

Photo Measurements of a Member Appearing Alone

Masthead-Type Photo

Page Size	Maximum Photo Size
3.5 x 5	1 square inch
3.5 x 8	1.7 square inches
4 x 6	1.5 square inches
5.5 x 8.5	3 square inches
7 x 8.5	3.6–4 square inches
8.5 x 11	6 square inches
8.5 x 14 or larger	6 square inches

—Newsletters and other mass mailings should not include more than two pictures on any one page in which the Member appears (this includes the masthead), and the area covered by such pictures should not exceed 20 percent of such page.

Photo Measurements Totaling 20 Percent of Page

Page Size	Maximum Photo Size
3.5 x 5	3.5 square inches
4 x 6	4.8 square inches
5.5 x 8.5	9.35 square inches
7 x 8.5	12 square inches
8.5 x 11	19 square inches
8.5 x 14	24 square inches

—Except for an individual Member photo as described above, a picture which includes the Member must relate to the content of the accompanying text, or have a cutline or caption which explains the official activity rather than merely labels the picture.

—Members are cautioned on the use of pictures which contain a banner, poster, or other prominent display of a Member's name (such as mobile office). Such pictures, if they "lead to the conclusion that (their) purpose is to advertise the Member or Member-elect rather than illustrate accompanying text," could be the basis for filing a complaint. Therefore, Members are urged to exercise judgment and restraint in the use of such pictures.

—Subject matter of such photos is limited to the official business, activities, and duties of a Member of Congress.[6]

[6] Advisory opinion dated November 17, 1975, held as not frankable a photo of a Member performing a "work day" function in his congressional district unrelated to official duties. "Work day" functions include activities such as: assembly line work, farming chores, pumping gas, cashiering, etc.

—A picture of a Member in the performance of legislative, representative, or other official duties, may include the spouse or other members of the family of such Member.[7]

—A picture of a Member may not be included with mail matter consisting solely of voting or election information.

—Members are encouraged to limit their use of photographs and text which depict them receiving awards, certificates of commendation, or the like.

(The guidelines, which are set forth above, are intended to assist Members of the House in determining the proper size, number, and content of such pictures.)

5. Size and Format

Mass mailings are not restricted in their length or number of pages.[8]

There shall be a clear and readable address panel consisting of a rectangular area approximately 3½″ from top to bottom and 4¼″ from left to right, in proportion to the size of the page. This space will be used for the frank in the upper right hand corner, the return address in the upper left hand corner, and addressee information in the center.

In any frankable mailing, the size on print type in which a Member's name appears is limited to not more than ¼″ in height, except for the masthead where it may measure not more than ½″.

Mail matter which contains any logo, masthead design, slogan, or photograph which is a facsimile of any matter contained in a Member's campaign literature is not frankable.[9]

All mass mailings must bear the following disclaimer statement: "This mailing was prepared, published and mailed at taxpayer expense." This notice must appear prominently on the front page of a letter, on the front of the envelope or near the mailing panel, or on the first page of a self mailer. It must appear horizontally and set apart from other text by lines of spacing and printed in type size not smaller than 7 point.[10]

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[7] In its decision in the case of *Lowenstein v. Wydler* (February 20, 1976), the Commission ruled nonfrankable a photograph appearing in a Member's newsletter depicting the Member and the Member's son meeting with the President in the Oval Office. The photograph was accompanied by the following caption: "LIFETIME THRILL: Right after Gerald R. Ford became President of the United States, Congressman Jack Wydler and 13-year-old son Chris were invited for a private visit with the President in the Oval Office. The casual meeting covered many topics, including the nation's number one problem, inflation. And for Chris, who sat in the President's chair, the visit became a thrill of a lifetime."

[8] Public Law 102–392, enacted in 1992, eliminated the two sheets of paper restriction on mass mailings.

[9] Adopted by the Commission in October 1988, effective January 1, 1989.

[10] Public Law 104–197 enacted in September 1996.

6. Solicitation of Funds

The solicitation of funds for or on behalf of a private organization, for example, for the purpose of supporting any charitable, educational, religious or political program is not frankable.

A notice of or reference to a registration fee to cover the cost of participation (program materials, food and beverage) in an official event, conference, meeting or other such function, sponsored by the Member is not considered a solicitation.

7. Questionnaire Seeking Public Opinion

Section 3210(a)(3)(C) authorizes the franking of "the usual and customary congressional questionnaire seeking public opinion on any law, pending or proposed legislation, public issue, or subject."

A tabulation of the results of these questionnaires received by the Representative may be included in a newsletter or other frankable mailing.

A Representative may not permit his frank to be used for the return to him of responses to the questionnaire.

The questionnaire may not include a question inviting the constituent to indicate his or her political affiliation, such as "Democrat," "Republican," or "Independent."

8. Congratulations

Section 3210(a)(3)(F) authorizes the franking of "mail matter expressing congratulations to a person who has achieved some public distinction."

The Commission emphasizes that these messages of congratulations are limited to matters of public distinction as opposed to matters of personal achievement. The following examples are illustrative, and not all-inclusive:

Examples of public distinction:

Election or appointment to public office	Publicly notable awards and honors
U.S. Citizenship	Eagle Scout/Gold Star
High School Graduation	Heroism
	Appointment to a U.S. military academy

In the above examples, there is a public purpose to be served in establishing communication with newly elected or appointed public officials on a Federal, state or local level; with new citizens and graduates; and with honorees for outstanding public service to promote the public good.

Letters consisting solely of birthday, wedding, anniversary, retirement or condolence messages are not frankable.

However, legislative correspondence, which otherwise is frankable, may contain an incidental statement of condolence or of congratulations for personal achievement. For example, a response to a constituent's request for assistance in obtaining survivor annuity benefits may contain an incidental statement of condolence. Similarly, a letter enclosing Federal publications may contain a brief congratulatory message for personal achievement, provided the substance of the letter focuses on the content of the publication or other officially related subject matter rather than on the congratulatory remark.

9. Letters of Recommendation

A letter of recommendation for a current or former employee or any individual that has worked with the Member in an official capacity is frankable as long as it relates to the duties performed by the individual. Members as part of their official duties can write recommendations for military academy and political appointees.

Members may write letters of general introduction, not endorsement or recommendation for organizations or individuals.

Letters of recommendation other than those described above are not frankable.[11]

10. Holiday Greetings

Section 3210(a)(5)(B)(iii) prohibits the use of the frank "for any card expressing holiday greetings from [a Representative]." Under precedents of the Commission, this has been interpreted to cover newsletters and all other mailings.[12] Holiday illustrations or the use of colors that give the impression of a holiday greeting are prohibited. Holiday greeting messages are prohibited on calendars. One recommendation for a calendar message is "Best Wishes."

11. Federal Laws and Publications

Section 3210(a)(3)(G) authorizes franking of "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."

Federal publications include the Congressional Directory, Department of Agriculture pamphlets and any other publications printed by order of Congress or by the Government Printing Office.

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[11] Adopted by Commission on Dec. 10, 1995.

[12] The Commission on Nov. 26, 1974, by a unanimous vote, held as not frankable a comment in newsletter expressing holiday greetings.

Publications purchased with Federal funds would include the U.S. Capitol Historical Society calendar.

Section 3210(f) provides, "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."

The following are examples of materials which, if printed with non-appropriated funds, may be sent as enclosures in an otherwise frankable mass mailing:

—Voter registration or election information;
—Brochures listing educational institutions or opportunities;
—Brochures listing career opportunities;
—State or local government publications listing public services;
—Publications on energy, consumer, or conservation measures of an informational nature.

Surplus books and other publications from the Library of Congress are mailable under the frank to other libraries or persons.

Ordinarily a book which is printed privately under the authorship or editorship of a Representative is not mailable under the frank; however, if the book is substantially biographical, under the provisions of paragraph 14 of this chapter, it may be mailed under the frank in response to a specific request for biographical material.

12. Congressional Record and Congressional Record Reprints

Section 3212 authorizes the franking of the Congressional Record. That section also states, "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 . . ."

In other words, a Congressional Record reprint or excerpt is subject to the test of frankability as set forth in section 3210 and applicable regulations.

Members are cautioned on mass mailing of Congressional Record reprints containing laudatory statements of one Member by another Member, and are urged to ensure that such material complies with the statutory provisions governing laudatory statements.

13. Voting Information

Section 3210(a)(3)(H) authorizes the franking of "mail matter which consists of voter registration or election information or assistance prepared and mailed in a nonpartisan manner."

A Representative may send under his frank material encouraging citizens to register and to vote or other material which provides information on voting. Care should be taken that such information is prepared in a nonpartisan manner and that it does not contain any political material which would cause it to be nonfrankable.[13]

If the matter mailed consists solely of voter information, it should not contain a picture of the Member (See paragraph 4(c) of this chapter, "Pictures in Newsletters, News Releases, or Other Mass Mailings").

14. Biographical Matter

Section 3210(a)(3)(I) authorizes franking of "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."

Biographical matter not in a Federal publication and sent in response to a request may be in the form of a book, or part of a book, a specially printed brochure, a newspaper or a magazine article, or any other available form.

The frankability of biographical matter would be impaired by the inclusion of personal matter for publicity, advertising, or political purposes.

The incidental inclusion of biographical material or the incidental reference to personal history in a newsletter article would not cause the entire newsletter to be nonfrankable. However, if a substantial part of the article was a recitation of the personal history of a Member, such material would come under the prohibition.

A Representative may mail biographical material under the frank to the news media, in the absence of a specific request, for the purpose of updating news media files.

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[13] Advisory opinion dated July 17, 1974, held as frankable a mass mailing to constituents urging voter registration.

Advisory opinion dated July 26, 1974, held a Member may not use his franking privilege as honorary chairman of a group of state administrators of elections to mail organizational information to such administrators.

15. Picture of a Representative

Section 3210(a)(3)(J) authorizes franking of "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."

The use of pictures in newsletters and accompanying news releases is described in paragraph 4(c) of this chapter.

A Representative may mail his photograph under the frank to the news media, in the absence of a specific request, for the purpose of updating their files.

A picture of the Member with a group of constituents may be sent individually to persons in the picture.

16. Personal Matter

Section 3210(a)(4) prohibits the use of the frank for "the transmission through the mails . . . 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 (who are authorized to use the frank)." [14] Letters of acceptance or regret to invitations may be sent under the frank only if a Member is invited to appear in an official capacity.

Section 3210(a)(5)(A) prohibits the use of the frank for "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."

Section 3210(a)(5)(B)(ii) prohibits the use of the frank for "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."

These prohibitions do not extend to the mailing under the frank of biographical matter, as authorized under paragraph 14 of this chapter.

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[14] Advisory opinion dated June 17, 1974, held as not frankable a signed copy of the Code of Fair Campaign Practices (being returned to the Fair Campaign Practices Committee, Inc.).

Matter complimenting a Representative on a legislative achievement is frankable so long as it relates only to achievements concerned with official duties as a Member of Congress.

A thank you note or message regarding election to office is not frankable.

Section 3210(a)(5)(B)(i) prohibits the franking of mail matter which constitutes or includes "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."

17. Political Matter

Section 3210(a)(5)(C) prohibits the use of the frank for "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." [15]

This prohibited mail matter would include the forwarding or transmittal of any mail matter of private persons or associations which seeks to influence any public issue.

The use of the frank to mail matter constituting a petition is not authorized.

Mail, including newsletters or news releases, which mentions that the Representative or an employee of a Representative (or any other person) is a candidate for political office is not frankable.

18. Mail Between a Representative's Washington Office and District Offices

Section 3210(a)(3)(D) authorizes the franking of "mail matter dispatched by a Member of Congress between his Washington office and any congressional district offices, or between his district office."

This provision is subject to the restrictions on the frankability of personal and political material as set forth in this chapter, and is further subject to the size and weight limitations on mail as set forth generally in the postal statutes.

19. Mail to Other Legislators

Section 3210(a)(3)(E) authorizes the franking of "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."

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[15] Advisory opinion dated July 15, 1974, held as not frankable a reprint from a national publication which reviewed the record of, and encouraged political support for, the incumbent Member of Congress.

20. Restitution for Misuse of the Frank; Payment to the Treasury

A mistake exists when a Representative, or an assistant to a Representative acting within the scope of his employment, improperly or unlawfully uses the frank on mail under an erroneous conviction arising from ignorance, forgetfulness, or misplaced confidence. Intentional or negligent use of the frank in an improper or unlawful manner cannot be excused as a mistake.

A Representative may offer to pay for the cost of a mailing sent out under his frank and which is not authorized under franking statutes. Such an offer will be viewed as an act of good faith by the House Commission on Congressional Mailing Standards in deciding whether to conduct further proceedings in case of a complaint against the Representative because of the mailing.

Section 3216(d) provides, "Money collected for matter improperly mailed under the franking privilege shall be deposited as miscellaneous receipts in the general fund of the Treasury."

Representatives making reimbursements under this provision should make checks payable to: U.S. Treasury—Financial Management Services and mail to:

Finance Division
Room 257
401 14th Street, S.W.
Washington, D.C. 20227
Phone: (202) 874–7110

21. Advisory Opinions

Under its authority, the Commission has delegated to the Commission staff the initial authority to issue advisory opinions to Members on the frankability of mail matter. A Member of the House, acting in that Member's capacity as a representative of a congressional district, shall, before making any mass mailing, submit a sample or description of the mail matter involved to the Commission for an advisory opinion as to whether such proposed mailing is in compliance with applicable provisions of law, rule, or regulation.[16]

An advisory opinion does not constitute approval by the Commission nor does it offer relief from the applicable statutes. Therefore, mail matter which is the subject of an advisory opinion should not bear the legend "Approved by the Commission on Congressional Mailing Standards" or any other such imprint indicating Commission approval.

No advisory opinion is final until it has been issued in writing.

[16] Public Law 101–520, enacted in 1990.

22. Public Access

All written staff advisory opinions issued on or after January 3, 1996 are available for public review and photocoping. In addition, mass mailings issued prior to that date are available for inspection. The Legislative Resource Center will make these materials available to the public. The Legislative Resource Center is located at B–106 Cannon House Office Building, phone 225–1300.[17]

23. Missing Children

Under section 3220, a franked mailing may contain biographies and photographs of missing children. This material may appear on the envelope or any page of a newsletter, questionnaire, meeting notice, or similar mailing. However, caution should be exercised that this material does not impede the mailing panel of a self-mailer. Should Members or staff have any questions regarding placement of the information, they should contact the Commission staff.

Note to Section 3220 of title 39 provides that any guidelines, rules, or regulations prescribed pursuant thereto shall cease to be effective December 31, 2002.[18]

For information on obtaining appropriate biographies and photographs of missing children, Members may contact the Program Director, The National Center for Missing and Exploited Children, 1835 K Street, N.W., Suite 700, Washington, D.C. 20006, (202) 634–7161.

[17] Adopted by the Commission on December 10, 1995.

[18] Public Law 105–126 enacted December 1997.

CHAPTER THREE

MASS MAILINGS

1. Definition

Section 3210(a)(6)(E) defines "mass mailing" as, 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. This term does not apply to (1) mailings in direct response to communications from persons to whom the matter is mailed; (2) mailings to colleagues in the Congress or to government officials whether Federal, state, or local; (3) mailings of news releases to the communications media.

Mass mailings, therefore, are determined by quantity. Any mailing, whether a newsletter, issue letter, Federal publication, meeting notice, etc., is deemed to be a mass mailing if it is to be distributed in a quantity of more than 500 pieces, regardless of form of address.

2. Funds Used in Preparation

Section 3210(f) provides that "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."

Cost of preparing and printing includes: stationery supplies, design and layout, printing and handling services, and mailing list compilation or acquisition costs.

Certain materials printed with nonappropriated funds may be exempted from this provision provided they are directly related to the Member's official representative function and are sent as enclosures or supplemental material to a mailing which is otherwise authorized by this provision. These materials must be instructional in nature on a public service basis rather than a general discussion of issues.

The following are examples of materials which, if printed with non-appropriated funds, may be sent as enclosures in an otherwise frankable mass mailing:

—Voter registration and election information.

—Brochures listing educational institutions or opportunities.

—Brochures listing career opportunities.

—State or local government publications listing public services.

—Publications on energy, consumer, or conservation measures.

3. Forms of Address

Mass mailings are divided into three categories:

(a) Individually addressed mail, first class, which bears specific names and addresses in the standard address format of:

Name
Street
City, State, Zip Code

(b) Individually addressed, standard bulk rate which bears specific names and addresses in standard address format of:

Name
Street
City, State, Zip Code

The abbreviation "Blk. Rt. ECRWSS" should be printed on the address side of each piece directly beneath the Member's frank. A bulk mail permit (#G-300) is required to send franked bulk standard mailings from a congressional district. Application for use of permit should be made with local bulk mail facility.

(c) Simplified form of address for general distribution to postal customers. This mail is addressed as follows:

Postal Customer
(#) Congressional District
(State)

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

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

(II) 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.

Section 3210(d)(4) provides that any franked mail which is mailed by a Member under section 3210(d) (simplified form of address or postal customer mail), shall be mailed at the equivalent rate of postage which assures that such mail will be sent by the most economical means practicable.

All mass mailings, regardless of form of address, are subject to the same content requirements. (For further information on congressional mailings see Appendix 4.)

4. Advisory Opinions

Section 311(F), Title 2 U.S.C. provides that a Member entitled to mail franked mail, shall, before making any mass mailing, submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an advisory opinion on the frankability of such mail matter.[1]

Under regulations issued by the Commission, the staff of the Commission is authorized to issue advisory opinions on the frankability of mail matter.[2]

In order for the Commission staff to be responsive to the needs of Members in complying with this rule, each Member is asked to observe the following procedures:

—assign a staff member familiar with the franking laws and regulations to supervise preparation of the mailing so that obvious violations of the franking laws are avoided before submitting the material for an advisory opinion;

—submit copies of the material in its proof form, and required administrative forms (see Appendix 5). If possible suggest that staff resolve questions in advance by telephone or personal consultation; and

—allow at least three days for an advisory opinion to be processed.

5. Applicability

The provisions relating to mass mailings apply to mailings by any Member of the House of Representatives, a Delegate to the House of Representatives, or the Resident Commissioner in the House of Representatives, when such Member, Delegate, or Resident Commissioner is acting in his or her capacity as a representative of a congressional district.

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[1] Legislative Branch Appropriations Act, 1991 (Public Law 101–520) enacted 1990.

[2] Commission ruling dated July 23, 1991, held that correspondence specifically related to casework need not be submitted for review.

CHAPTER FOUR

ELECTION YEAR MAILING RESTRICTIONS

1. Restriction on Mass Mailings Prior to Elections

Section 3210(a)(6)(A) provides that a Member may not frank any mass mailing less than 90 days immediately before the date of any primary or general election (whether regular, special, or runoff) in which such Member is a candidate for public office.[1]

The above restrictions on mass mailings by candidates do not apply to mass mailings by the chairman of any standing, select, joint, or other official committee of the Congress, or subcommittee thereof, and which relate to the normal business of the committee.

A. Definitions

(1) *Candidate.*—A Member of or a Member-elect to the House of Representatives is deemed to be a candidate for public office at an election if his or her name appears anywhere on any official ballot to be used in such election.[2]

(2) *Mass mailing.*—Means newsletters and other similar mailings of more than 500 pieces in which the content of the matter mailed is substantially identical but shall not apply to (a) mailings in direct response to communications from persons to whom the matter is mailed; (b) mailings to colleagues in the Congress or to government officials whether Federal, state, or local; or (c) mailings of news releases to the communications media. Mail matter will be deemed to fall within the prohibition of the subject rule when the total of such pieces of mail matter exceeds 500, whether in cumulative mailings or a single mailing during the 90-day period of the rule.

Federal publications, publications purchased with Federal funds, and publications containing items of general information, when individually addressed and not included in a planned mailing or one which can be reasonably anticipated, shall not be deemed "similar mailings" for the purpose

[1] Public Law 101–197, enacted September, 1996.

[2] Adopted by the Commission on February 21, 1974.

of the subject statute or these regulations, unless such a mailing exceeds 500 pieces in a single mailing.

For example, information to new home owners would be frankable during the 90-day period, but certificates to high school graduates would not be frankable since such a mailing would be considered planned or reasonably anticipated.

B. Exceptions

Section 3210(a)(6)(E) provides three exceptions to the mass mail prohibition prior to elections:

(i) (mailings) which are in direct response to inquiries or requests from the persons to whom the matter is mailed;

(ii) (mailings) to colleagues in Congress or to government officials (whether Federal, state, or local); and

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

The Commission believes the last two exceptions are self-explanatory.

In application of the first exception, the Commission stresses the phrase "*direct* response to inquiries or requests."[3] Therefore, response to a signed petition with a form or identical letter individually addressed to each of the signers of the petition is frankable. However, a follow-up letter to the same list of petitioners is not frankable under this section in that it would not be in direct response to an inquiry.

Similarly, follow-up letters to persons who had previously written and had been answered on a particular subject, if such letters by their form and volume constitute a mass mailing, are not frankable during the 90-day period prior to elections. Also, requests for questionnaire results or other material, when solicited by Members on questionnaire forms or newsletters, are not deemed to be in direct response to an inquiry or request.

Members may not send miscellaneous enclosures of "inserts" with direct response mail, during the 90-day cutoff period, if 500 or more of the inserts will be mailed in one session of Congress. However, you may include an enclosure or insert if it is *specifically germane* to the topic of the inquiry or request. Therefore, if someone specifically requests information about the topic of the enclosure or insert, you *may* include it with your mail. But if the topic of the insert is unrelated to the incoming inquiry, during the 90-day cutoff period, you *may not* include that insert in your response (if 500 or more will be mailed).[4] Section 3210(a)(6)(B) provides that any mass mailing which is mailed by the chairman of any standing, select, special or joint committee, subcommittee, or commission of the House of Representa-

[3] Advisory opinion dated Oct. 17, 1974, held as not frankable (during the 28-day period prior to the general election) approximately 2,000 letters to constituents who had completed a questionnaire since the proposed letter embodied an offer to meet with the addressee at some unspecified time and place and was not in direct response to an inquiry.

[4] Adopted by Commission on August 19, 1994.

tives, which relates to the *normal and regular business* of the organization may be mailed without regard to the mass mailing cutoff provisions. The Commission emphasizes "normal and regular" committee business, i.e., press releases, schedules of hearings, or committee documents. Nothing in 3210(a)(6)(B) should be used to circumvent the pre-election mass mailing laws and regulations. A newsletter which is suddenly issued by a committee during a cutoff, for example, would not be deemed frankable material.

C. Caution on 90-day Cutoff Periods Prior to Elections

The 90-day cutoff prohibition on mass mailings applies to every Member whose name is to appear on an official ballot for election or reelection to public office.

State election laws vary considerably. For example, in some states, if a Member is unopposed in either the primary or general election, the Member's name *does not* appear on the ballot. The Member, therefore, would not be subject to the 90-day cutoff provision.

In other states, however, a Member's name may appear on the ballot *whether or not* the Member has an opponent. Even if a Member is unopposed, if the Member's name is to appear on the ballot, the 90-day mass mailing prohibition *would* apply.

Members should ensure that staff members responsible for mass mailings are knowledgeable concerning election laws as they affect mailing privileges during the period prior to primary and general election periods. Members' staff seeking advisory opinions from the Commission must certify that, to the best of their knowledge, the frankability of the proposed mailing is not adversely affected by applicable state election laws.

Part II

RULES OF PRACTICE IN PROCEEDINGS before the HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS

FOREWORD

This part contains the Rules of Practice in Proceedings before the House Commission on Congressional Mailing Standards which were adopted by the Commission on February 4, 1974, and as amended on June 27, 1974, and January 12, 1977, pursuant to section 5 of Public Law 93–191.

Also included in the introduction of this part is the notice printed in the Congressional Record on February 19, 1974, providing public notice of the rules.

The Commission has also included suggested forms (see page 42) which may be used by persons involved in proceedings before the Commission.

BILL THOMAS, *Chairman.*

INTRODUCTION

NOTICE

RULES OF PRACTICE IN PROCEEDINGS BEFORE THE HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS

Notice is hereby given that, pursuant to section 5 of the act of December 18, 1973 (87 Stat. 742; Public Law 93–191), the Rules of Practice in Proceedings before the House Commission on Congressional Mailing Standards, as hereinafter set forth, have been prescribed and established by the House Commission on Congressional Mailing Standards at its organizational meeting held on February 4, 1974.

Subsection (e) of section 5 provides in part that the Commission "shall prescribe regulations for the holding of investigations and hearings, the conduct of proceedings, and the rendering of decisions under this subsection providing for equitable procedures and the protection of individual, public, and Government interests. The regulations shall, insofar as practicable, contain the substance of the administrative procedure provisions of sections 551–559, and 701–706, of title 5, United States Code. These regulations shall govern matters under this subsection subject to judicial review thereof."

In view of the fact that a commission of the legislative branch is not authorized to publish documents, such as these rules of practice, in the Federal Register (44 U.S.C. 1501), the Commission has determined to provide public notice thereof by printing them in the Congressional Record. In addition to the notice hereby given, copies of the rules will be made available to any person upon request to the Commission.

Due to the fact that the only remedy now available to persons who may wish to commence a proceeding on a violation of the franking privilege as it relates to the House of Representatives, is the filing of a complaint and proceedings before the Commission under section 5 of the act of December 18, 1973 (87 Stat. 742; Public Law 93–191), the Commission has determined that these rules shall take effect immediately.

Although the Commission does not anticipate any specific future changes in these regulations, the Commission would appreciate, and therefore invites comments or suggestions which might assist in future revision of the rules. Comments should be submitted with at least 10 copies and may be mailed to the Commission at 305 Cannon House Office Building, Washington, D.C. 20515.

In consideration of the foregoing, the Rules of Practice in Proceedings before the House Commission on Congressional Mailing Standards as hereinafter set forth are made effective immediately.

Issued in Washington, D.C., on February 19, 1974.

MORRIS K. UDALL,
Chairman, House Commission on Congressional Mailing Standards.

RULES OF PRACTICE IN PROCEEDINGS BEFORE THE HOUSE COMMISSION ON CONGRESSIONAL MAILING STANDARDS

ANALYSIS OF RULES

Rule 1. Authority for rules.
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Rule 23. Decisions.
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Rule 26. Computation of time.
Rule 27. Official record.
Rule 28. Public information.

Rule 1. Authority for rules.

These rules of practice are issued by the House Commission on Congressional Mailing Standards of the U.S. House of Representatives, hereinafter referred to as the Commission, pursuant to authority under section 5 of the act of December 18, 1973 (87 Stat. 742; Public Law 93–191).

Rule 2. Scope of rules.

These rules of practice shall be applicable in all proceedings before the Commission.

Rule 3. Informal dispositions.

These rules do not preclude the disposition of any matter by the Commission prior to any proceeding or hearing, if it determines that there is no substantial reason to believe that a violation has or is about to occur

as alleged in the complaint, or by agreement between the parties either before or after the filing of a complaint when time, the nature of the proceeding, and the public interest permit.

Rule 4. Office; business hours.

The offices of the Commission and the officials mentioned in these rules are located at the House of Representatives, 140 Cannon House Office Building, Washington, D.C. 20515, and are open Monday through Friday except holidays from 9:00 a.m. to 5:00 p.m.

Rule 5. Complaints.

(a) Any person who believes that a person authorized to use the frank is about to violate or, within the immediately preceding period of 1 year, has violated the use of the frank under section 3210, 3211, 3212, 3213(2) or 3218, or in connection with the operation of section 3215, of title 39, United States Code, may file with the Commission a signed complaint which names the person involved; states the legal authority and jurisdiction under which the proceeding is initiated; states the facts in a manner sufficient to enable the person named therein to make answer thereto; recommends the issuance of an appropriate order; sets forth the address of the complainant and the name and address of his attorney, if any.

(b) All allegations in the pleadings shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances, and a paragraph may be referred to by number in all succeeding pleadings. Each complaint founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth.

(c) Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.

(d) The person so named in the complaint shall be known as the respondent and the person filing the complaint shall be known as the complainant.

Rule 6. Service.

(a) The Commission shall cause a copy of the complaint to be served upon the respondent or his agent and it shall issue a notice stating the date for filing an answer, which shall not exceed 10 days from the service of the complaint, and a reference to the effect of failure to file an answer. (See rule 10.)

(b) Service of all papers shall be effected by mailing the same, postage prepaid registered, or certified mail, return receipt requested, or by causing said papers to be personally served on the parties or their respective agents, as appropriate, by an authorized representative of the Commission. In the case of personal service the person making service shall secure from the parties of their agents, a written acknowledgement of receipt of said papers, showing the date and time of such receipt. Said acknowledgement (or the return receipt where service is effectuated by mail) shall be made a part of the record of the proceedings. The date of delivery, as shown by the ac-

knowledgement of personal service or the return receipt, shall be the date of service.

Rule 7. Notice of hearing.

Upon the filing of the respondent's answer, if the Commission determines that there is reasonable justification for a complaint filed under rule 5, it shall issue a notice of hearing stating the time and place of the hearing and a reference to the effect of failure to appear at the hearing (see rule 10). Except for good cause shown, the hearing date shall be within 30 days of the date of the filing of the complaint.

Rule 8. Filing documents for the record.

(a) Each party shall file with the Commission, pleadings, motions, orders, and other documents for the record. The Commission shall cause copies to be served promptly to other parties to the proceeding and to the hearing officer.

(b) The parties shall submit four copies of all documents unless otherwise ordered by the hearing officer. One copy shall be signed as the original.

(c) Documents shall be dated and state the title of the proceeding. Any pleading or other document required by order of the hearing officer to be filed by a specified date shall be delivered to the Commission on or before such date. The date of filing shall be entered thereon by the Commission.

Rule 9. Answer.

(a) The answer shall contain a concise statement admitting, denying, or explaining each of the allegations set forth in the complaint.

(b) Any facts alleged in the complaint which are not denied or are expressly admitted in the answer may be considered as proved, and no further evidence regarding these facts need be adduced at the hearing.

(c) The answer shall be signed personally by the respondent except for good cause shown.

(d) The answer shall set forth the respondent's address and the name and address of his attorney.

(e) The answer shall affirmatively state whether the respondent will appear in person or by his attorney at the hearing.

(f) If the respondent does not desire to appear at the hearing in person or by his attorney he may request that the matter be submitted for determination pursuant to paragraph (b) of rule 10.

Rule 10. Default.

(a) If the respondent fails to file an answer within the time specified, he shall be deemed in default, and to have waived a hearing and further procedural steps. The Commission shall thereafter issue an order without further notice to the respondent.

(b) If the respondent files an answer but fails to appear at the hearing, the hearing officer shall receive complainant's evidence and submit proposed findings of fact and conclusions of law to the Commission.

(c) If the complainant or his attorney fails to appear at the hearing, the hearing officer shall receive the respondent's evidence and submit proposed findings of fact and conclusions of law to the Commission.

Rule 11. Amendment of pleadings.

(a) Amendments proposed prior to the hearing shall be filed with the Commission. Amendments proposed thereafter shall be filed with the hearing officer.

(b) By consent of the parties, a pleading may be amended at any time. Also, a party may move to amend a pleading at any time prior to the close of the hearing and, provided that the amendment is reasonably within the scope of the proceeding initiated by the complaint, the hearing officer shall make such ruling on the motion as he deems to be fair and equitable to the parties.

(c) When issues not raised by the pleadings but reasonably within the scope of the proceedings initiated by the complaint are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments as may be necessary to make the pleadings conform to the evidence and to raise such issues shall be allowed at any time upon the motion of any party.

(d) If a party objects to the introduction of evidence at the hearing on the ground that it is not within the issues made by the pleadings, but fails to satisfy the hearing officer that an amendment of the pleadings would prejudice him on the merits, the hearing officer may allow the pleadings to be amended and may grant a continuance to enable the objecting party to rebut the evidence presented.

(e) The hearing office may, upon reasonable notice and upon such terms as are just, permit service of a supplemental pleading setting forth transactions, occurrences, or events which have happened since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

Rule 12. Continuances and Extensions.

Continuances and extensions will not be granted by the hearing officer except for good cause shown.

Rule 13. Hearings.

Hearings are held at the U.S. Capitol, Washington, D.C. 20515, or other locations designated by the Commission.

Rule 14. Change of place of hearings.

Not later than 7 days prior to the date fixed for the hearing, a party may file a request that a hearing be held to receive evidence on this behalf at a place other than that designated for hearing in the notice. He shall support his request with a statement outlining:

(a) The evidence to be offered in such place;

(b) The names and addresses of the witnesses who will testify; and

(c) The reasons why such evidence cannot be produced in Washington, D.C.

The Commission shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

Rule 15. Appearances.

(a) The parties may appear and be heard in person or by attorney.

(b) When a party is represented by an attorney, all pleadings and other papers subsequent to the complaint shall be mailed to the attorney.

(c) Parties must promptly file a notice of change of attorney.

Rule 16. Hearing officers.

(a) A hearing officer may be appointed by the Commission to preside over any proceeding or hearing hereunder.

(b) The hearing officer shall have authority to:

(1) Administer oaths and affirmations;

(2) Examine witnesses;

(3) Rule upon offers of proof, admissibility of evidence, and matters of procedure;

(4) Order any pleadings amended upon motion of a party at any time prior to the close of the hearing;

(5) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorus manner;

(6) Require the filing of briefs or memoranda of law on any matter upon which he is required to rule;

(7) Order prehearing conference for the purpose of the settlement or simplification of issues by the parties;

(8) Order the proceeding reopened at any time prior to a final decision for the receipt of additional evidence; and

(9) Take any other action authorized by the Commission.

Rule 17. Evidence.

(a) Except as otherwise provided in these rules, the rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States shall govern. However, such rules may be relaxed to the extent that the hearing officer deems proper to insure a fair hearing. The hearing officer shall exclude irrelevant, immaterial, or repetitous evidence.

(b) Testimony shall be under oath or affirmation and witnesses shall be subject to cross-examination.

(c) Agreed statements of fact may be received in evidence.

(d) Official notice or knowledge may be taken of the types of matters of which judicial notice or knowledge may be taken.

(e) Authoritative writings of the sciences may be submitted in evidence, but only through the testimony of expert witnesses or by stipulation.

(f) The written statement of a competent witness may be received in evidence provided that such statement is relevant to the issues that the witness shall testify under oath at the hearing, that the statement is in all respects true and in the case of expert witnesses, that the statement correctly states his opinion or knowledge concerning the matters in question.

(g) A party who objects to the admission of evidence shall make a brief statement of the grounds for the objection. Formal exceptions to the rulings of the hearing officer are unnecessary.

Rule 18. Subpoenas.

At the request of any party, subpoenas for attendance of witnesses at a hearing may be issued over the signature of the chairman of the Commission or of any member designated by him or by the Commission and may be served by such person or persons as may be designated by such chairman or member.

Rule 19. Witness fees.

Fees and expenses for witnesses for either party or for depositions requested by either party shall not be paid by the Commission.

Rule 20. Depositions.

(a) Not later than 5 days after the filing of respondent's answer, any party may file application with the Commission for the taking of testimony by deposition. In support of such application the applicant shall submit under oath or affirmation a statement setting out the reasons why such testimony should be taken by deposition, the time and the place, and the name and address of the witness whose deposition is desired, the subject matter of the testimony of each witness, its relevancy, and the name and address of the person before whom the deposition is to be taken.

(b) If the application be granted, the order for the taking of the deposition will specify the time and place thereof, the name of the witness, the person before whom the deposition is to be taken, and any other necessary information.

(c) Each witness testifying upon deposition shall be duly sworn, and the adverse party shall have the right to cross examine. The questions and answers, together with all objections, shall be reduced to writing and, unless waived by stipulation of the parties, shall be read to and subscribed by the witness in the presence of the deposition officer who shall certify it in the usual form. The deposition officer shall file the testimony taken by deposition as directed in the order. The deposition officer shall put the witness on oath. All objections made at the time of examination shall be noted by the deposition officer and the evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, a party may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim. Objections to relevancy or materiality of testimony; or to errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties; and errors of any kind which might be obviated, cured, or removed if promptly presented, are waived unless timely objection is made at the taking of the deposition.

(d) At the hearing, any part or all of the deposition may be offered in evidence by any party who was presented or represented at the taking of the deposition or who had notice thereof. If the deposition is not offered and received in evidence, it shall not be considered as a part of the record in the proceeding. The admissibility of depositions or parts thereof shall be governed by the rules of evidence.

(e) The party requesting the deposition shall pay all fees required to be paid to witnesses and the deposition officer, and shall provide an original

and one copy of the deposition for the official record, and shall serve one copy upon the opposing party.

(f) Within the United States or within a territory or insular possession, subject to the dominion of the United States, depositions may be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held.

(g) Depositions may also be taken and submitted on written interrogatories in substantially the same manner as depositions taken by oral examination. When a deposition is taken upon written interrogatories and cross-interrogatories none of the parties shall be present or represented, and no person, other than the witness, a stenographic reporter, and the officer shall be present at the examination of the witness, which fact shall be certified by the officer, who shall propound the interrogatories and cross-interrogatories to the witness in their order and reduce the testimony to writing in the witness' own words.

Rule 21. Transcript.

(a) Hearings shall be stenographically reported under the supervision of the hearing officer. Argument upon any matter may be excluded from the transcript by order of the hearing officer. A copy of the transcript shall be a part of the record and the sole official transcript of the proceeding. Copies of the transcript shall be supplied to the parties to the proceeding at their own expense by the reporter. Copies of parts of the official record other than the transcript may be obtained by the parties from the reporter upon the payment to him of a reasonable price therefor.

(b) Changes in the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. No physical changes shall be made in or upon the official transcript, or any part thereof, which have been filed with the record. Within 5 days after the receipt by any party of a copy of the official transcript, or any part thereof, he may file a motion requesting correction of the transcript. Opposing counsel shall, within such time as may be specified by the hearing officer, notify the hearing officer in writing of his concurrence or disagreement with the requested corrections. Failure to interpose timely objection to a proposed correction shall be considered to be concurrence. Thereafter, the hearing officer shall by order specify the corrections to be made in the transcript. The hearing officer on his own initiative may order corrections to be made in the transcript with prompt notice to the parties of the proceeding. Any changes ordered by the hearing officer other than by agreement of the parties shall be subject to objection and exception.

Rule 22. Proposed findings and conclusions.

(a) Each party to a proceeding, except one who fails to appear at the hearing or indicates that he does not desire to appear, may, unless at the discretion of the hearing officer such is not appropriate, submit proposed findings of fact, conclusions of law, and supporting reasons either in oral or written form in the discretion of the hearing officer. The hearing officer may also require parties to any proceeding to submit proposed findings of fact and conclusions of law with supporting reasons. Unless given orally, the date set for filing of proposed findings of fact and conclusions of law shall be within 5 days after the delivery of the official transcript to the Commis-

sion who shall notify both parties of the date of its receipt. The filing date for proposed findings shall be the same for both parties. If not submitted by such date, or unless extension of time for the filing thereof is granted, they will not be included in the record or given consideration.

(b) Except when presented orally before the close of the hearing, proposed findings of fact shall be set forth in serially numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits supporting the proposed findings. Each proposed conclusion shall be separately stated.

Rule 23. Decisions

(a) *Findings and conclusions by hearing officer.*—Within 20 days after any proceeding or hearing, as appropriate, has been concluded, the hearing officer shall submit to the Commission proposed findings of fact and conclusions of law, with the reasons therefor, upon all the material issues of fact or law presented on the record.

(b) *Final decision by the Commission.*—The Commission shall render a final decision within 30 days after any proceeding or hearing, as appropriate, has been concluded or, in the event that no hearing or other proceeding is held, within 30 days after the answer to a complaint is filed. Such decision shall include findings and conclusions, with the reasons therefor, upon all the material issues of fact or law presented on the record, and the appropriate order or denial thereof.

Rule 24. Motion for reconsideration.

A party may file a motion for reconsideration of a final Commission decision within 10 days after receiving it or within such longer period as the Commission may fix. Each motion for reconsideration shall be accompanied by a brief clearly setting forth the points of fact and of law relied upon in support of said motion. The Commission shall transmit a copy of the motion and brief to the opposing party, who shall file a written reply brief within 10 days after filing or such other period as the Commission may fix. A copy of the reply brief shall be sent to the moving party by the Commission.

Rule 25. Modification or revocation of orders.

A party against whom an order has been issued may file an application for modification or revocation thereof. The Commission shall transmit a copy of the application to the opposing party, who shall file a written reply within 10 days after filing or such other period as the Commission may fix. A copy of the reply shall be sent to the applicant by the Commission. Thereafter, an order granting or denying such application will be issued by the Commission.

Rule 26. Computation of time.

A designated period of time under these rules excludes the day the period begins, and includes the last day of the period unless that last day is a Saturday, Sunday, or legal holiday, in which event the period runs until the close of business on the next business day.

Rule 27. Official record.

The transcript of testimony together with all pleadings, orders, exhibits, briefs, and other documents filed in the proceeding shall constitute the official record of the proceeding.

Rule 28. Public information.

The Commission maintains for public inspection in its offices copies of all final decisions, including a record of the votes on any question on which a record vote is taken. The Commission also maintains a complete official record of every proceeding, all other records, data and files of the Commission which shall be the property of the Commission and shall be kept in the offices of the Commission or such other places as the Commission may direct.

INTRODUCTORY STATEMENT

The following forms are intended for illustration only. They are limited in number, since no attempt has been made to furnish a manual of forms.

These forms do not cover every possible situation involving an allegation of a violation of the franking laws. They may be used as a guide for the preparation of pleadings by prospective parties in proceedings before the Commission.

Each pleading, motion, or other paper should have a caption similar to that shown on the forms hereinafter set forth with the designation of the particular paper substituted for the word "complaint."

Offset Folios 55 to 58 Insert here

Insert offset folio 59 here

Appendix No. 1

LAWS RELATING TO THE USE OF THE CONGRESSIONAL FRANK

Title 2.—The Congress

§ Sec. 501 House Commission on Congressional Mailing Standards

(a) There is established a special commission of the House of Representatives, designated the "House Commission on Congressional Mailing Standards" (herein referred to as the "Commission").

Membership; political party representation; Chairman; vacancies; quorum

(b) The Commission shall be composed of six Members appointed by the Speaker of the House, three from the majority political party, and three from the minority political party, in the House. The Speaker shall designate as Chairman of the Commission, from among the members of the Committee on House Oversight, one of the Members appointed to the Commission. A vacancy in the membership of the Commission shall be filled in the same manner as the original appointment. Four members of the Commission shall constitute a quorum to do business.

Assistance and use of personnel, including chief counsel, of Committee on House Oversight

(c) In performing its duties and functions, the Commission may use such personnel, office space, equipment, and facilities of, and obtain such other assistance from, the Committee on House Oversight, as such committee shall make available to the Commission. Such personnel and assistance shall include, in all cases, the services and assistance of the chief counsel or other head of the professional staff (by whatever title designated) of such committee. All assistance so furnished to the Commission by the Committee on House Oversight shall be sufficient to enable the Commission to perform its duties and functions efficiently and effectively.

Advisory opinions or consultations respecting franked mail for persons entitled to franking privilege; franking privilege regulations

(d) The Commission shall provide guidance, assistance, advice, and counsel, through advisory opinions or consultations, in connection with the mailing or contemplated mailing of franked mail under section 3210, 3211, 3212, 3213(2), 3218, 3219, or 3220, in connection with the operation of section 3215, of Title 39, and in connection with any other Federal law (other than any law which imposes any criminal penalty) or any rule of the House of Representatives relating to franked mail, upon the request of any Member of the House or Member-elect, Resident Commissioner or Resident Commissioner-elect, Delegate or Delegate-elect, any former Member of the House or former Member-elect, Resident Commissioner or Resident Commissioner-elect, Delegate or Delegate-elect, any surviving spouse of any of the foregoing (or any individual designated by the Clerk of the House under section 3218 of Title 39), or any other House official or former House official, entitled to send mail as franked mail under any of these sections. The Commission shall prescribe regulations governing the proper use of the franking privilege under those sections by such persons.

Complaint of franked mail violations; investigation; notice and hearing; conclusiveness of findings; decision of Commission; judicial review; reference of certain violations to Committee on Standards of Official Conduct of the House for appropriate action and enforcement; administrative procedure regulations

(e) Any complaint by any person that a violation of any section of Title 39 referred to in subsection (d) of this section (or any other Federal law which does not include any criminal penalty or any rule of the House of Representatives relating to franked mail) is about to occur, or has occurred within the immediately preceding period of one year, by any person referred to in such subsection (d), shall contain pertinent factual material and shall conform to regulations prescribed by the Commission. The Commission, if it determines there is reasonable justification for the complaint, shall conduct an investigation of the matter, including an investigation of reports and statements filed by the complainant with respect to the matter which is the subject of the complaint. The Commission shall afford to the person who is subject of the complaint due notice and, if it determines that there is substantial reason to believe that such violation has occurred or is about to occur, opportunity for all parties to participate in a hearing before the Commission. The Commission shall issue a written decision on each complaint under this subsection not later than thirty days after such a complaint has been filed or, if a hearing is held, not later than thirty days after the conclusion of such hearing. Such decision shall be based on written findings of fact in the case by the Commission. Such findings of fact by the Commission on which its decision is based are binding and conclusive for all judicial and administrative purposes, including purposes of any judicial

challenge or review. Any judicial review of such decision, if ordered on any ground, shall be limited to matters of law. If the Commission finds in its written decision, that a serious and willful violation has occurred or is about to occur, it may refer such decision to the Committee on Standards of Official Conduct of the House of Representatives for appropriate action and enforcement by the committee concerned in accordance with applicable rules and precedents of the House and such other standards as may be prescribed by such committee. In the case of a former Member of the House or a former Member-elect, a former Resident Commissioner or Delegate or Resident Commissioner-elect or Delegate-elect, any surviving spouse of any of the foregoing (or any individual designated by the Clerk of the House under section 3218 of Title 39), or any other former House official, if the Commission finds in its written decision that any serious and willful violation has occurred or is about to occur, then the Commission may refer the matter to any appropriate law enforcement agency or official for appropriate remedial action. Notwithstanding any other provision of law, no court or administrative body in the United States or in any territory thereof shall have jurisdiction to entertain any civil action of any character concerning or related to a violation of the franking laws or an abuse of the franking privilege by any person listed under subsection (d) of this section as entitled to send mail as franked mail, except judicial review of the decisions of the Commission under this subsection. The Commission shall prescribe regulations for the holding of investigations and hearings, the conduct of proceedings, and the rendering of decisions under this subsection providing for equitable procedures and the protection of individual, public, and Government interests. The regulations shall, insofar as practicable, contain the substance of the administrative procedure provisions of sections 551–559, and 701–706, of Title 5. These regulations shall govern matters under this subsection subject to judicial review thereof.

Procedural considerations; sessions, place and time; subpoenas, issuance and service; oaths and affirmations; testimony; printing and binding; expenditures; organizational and procedural regulations; majority assent

(f) The Commission may sit and act at such places and times during the sessions, recesses, and adjourned periods of Congress, require by subpoena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, administer such oaths and affirmations, take such testimony, procure such printing and binding, and make such expenditures, as the Commission considers advisable. The Commission may make such rules respecting its organization and procedures as it considers necessary, except that no action shall be taken by the Commission unless a majority of the Commission assent. Subpoenas may be issued over the signature of the Chairman of the Commission or of any member designated by him or by the Commission, and may be served by such person or persons

as may be designated by such Chairman or member. The Chairman of the Commission or any member thereof may administer oaths or affirmations to witnesses.

Property of Commission; records; voting record; location of records, data, and files

(g) The Commission shall keep a complete record of all its actions, including a record of the votes on any question on which a record vote is demanded. All records, data, and files of the Commission shall be kept in the offices of the Commission or such other places as the Commission may direct.

§ 311. Legislative Branch Appropriations Act, 1997

Sec. 311. (a) Each mass mailing sent by a Member of the House of Representatives shall bear in a prominent place on its face, or on the envelope or outside cover or wrapper in which the mail matter is sent, the following notice "THIS MAILING WAS PREPARED, PUBLISHED, AND MAILED AT TAXPAYER EXPENSE.", or a notice to the same effect in words which may be prescribed under subsection (c). The notice shall be printed in a type size not smaller than 7-point.

(c) The Committee on House Oversight shall pescribe such rules and regulations and shall take such other action as the Committee considers necessary and proper for Members to conform to the provisions of this subsection and applicable rules and regulations.

§ 311. Legislative Branch Appropriations Act, 1991

SEC. 311. (a) Except as otherwise provided in this section, funds appropriated by the Act or any other Act for expenses of official mail of any person entitled to use the congressional frank may be expended only in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate or the Committee on House Oversight of the House of Representatives, as applicable. Such regulations shall require—

(1) individual accountability for use of official mail by each person entitled to use the congressional frank;

(2)(A) with respect to the House of Representatives, allocation of funds for official mail to be made to each such person with respect to each session of Congress (with no transfer to any other session or to any other such person); and

(B) with respect to the Senate, allocation of funds for official mail to be made to each such person with respect to each session of Congress (with no transfer to any other session, other than transfers from the first session of a Congress to the second session of that Congress, or to any other such person); and

(3) with respect to the House of Representatives, that in addition to any other report or information made available to the public (through the House Commission on Congressional Mailing Standards or other-

wise) regarding the use of the frank, the Clerk of the House of Representatives shall include in the quarterly report of receipts and expenditures submitted to the House of Representatives a statement (based solely on data provided for that purpose by the Committee on House Oversight of the House of Representatives and the House Commission on Congressional Mailing Standards) of costs charged against the Official Mail Allowance for each person entitled to use the congressional frank.

(b) The Postmaster General, in consultation with the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives—

(1) shall monitor use of official mail by each person entitled to use the congressional frank;

(2) at least monthly, shall notify any person with an allocation under subsection (a)(2) as to the percentage of the allocation that has been used; and

(3) may not carry or deliver official mail the cost of which is in excess of an allocation under subsection (a)(2).

(c) Expenses of official mail of the Senate and the House of Representatives may be paid only from funds specifically appropriated for that purpose and funds so appropriated—

(1) may be supplemented by other appropriated funds only if such supplementation is provided for by law or by regulation under subsection (a); and

(2) may not be supplemented by funds from any other source, public or private.

(d) No Senator or Member of the House of Representatives may maintain or use, directly or indirectly, an unofficial office account or defray official expenses from—

(1) funds received from a political committee or derived from a contribution or expenditure (as such terms are defined in section 301 of the Federal Election Campaign Act of 1971);

(2) funds received as reimbursement for expenses incurred by the Senator or Member in connection with personal services provided by the Senator or Member to the person making the reimbursement; or

(3) any other funds that are not specifically appropriated for official expenses.

(e)(1) There is established in the House of Representatives an Official Mail Allowance for Members, officers, and employees of the House of Representatives who are persons entitled to use the congressional frank. Regulations for use of the Official Mail Allowance shall be prescribed—

(A) by the Committee on House Oversight of the House of Representatives, with respect to allocation and expenditures relating to the Allowance; and

(B) by the House Commission on Congressional Mailing Standards, with respect to matters under section 3210(a)(6)(D) of title 39, United States Code.

(2) The Official Mail Allowance—

(A) shall be available for postage for franked mail sent at a first class, third class, or fourth class rate;

(B) with respect to a Member of the House of Representatives, shall be available, in a session of Congress, in a total amount, as determined under paragraph (1)(A), of not more than the product of (i) 3 times the single-piece rate applicable to first class mail, and (ii) the number (as determined by the Postmaster General) of addresses (other than business possible delivery stops) in the congressional district, as such addresses are described in section 3210(d)(7)(B) of title 39, United States Code;

(C) with respect to any other person entitled to use the congressional frank in the House of Representatives (including any Member of the House of Representatives who receives an allocation under subsection (a)(2) with respect to duties as an elected officer of, or holder of another position in, the House of Representatives), shall be available, in a session of Congress, in a total amount determined under paragraph (1)(A); and

(D) shall not be available for payment of any nonpostage fee or charge, including any fee or charge for express mail, express mail drop shipment, certified mail, registered mail, return receipt, address correction, or postal insurance.

(3)(A) Subject to subparagraph (B), each Member of the House of Representatives may transfer amounts from the Member's Representational Allowance of the Member to the Official Mail Allowance of the Member.

(B) The total amount a Member may so transfer with respect to a session of Congress may not exceed $25,000.

(4) The Official Expenses Allowance shall be available to a Member of the House of Representatives for the payment of nonpostage fees and charges referred to in paragraph (2)(D) and for postage for mail for official business sent outside the United States.

(f) A Member of the House of Representatives shall, before making any mass 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 such proposed mailing is in compliance with applicable provisions of law, rule, or regulation.

(g) As used in subsection (a) through (f)—

(1) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress; and

(2) the term "person entitled to use the congressional frank" means a Senator, Member of the House of Representatives, or other person authorized to use the frank under section 3210(b) of title 39, United States Code.

* * * * * * *

(i) This section and the amendments made by this section shall apply with respect to sessions of Congress beginning with the first session of the One Hundred Congress, except that with respect to the Senate, subsection (d) shall apply beginning on May 1, 1992, and the funds referred to in paragraph (3) of such subsection shall not include personal funds of a Senator or Member of the House of Representatives.

* * * * * * *

Title 39.—Postal Service

§ 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 of 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 frank;

(5) "Members of Congress" includes Senators, Representatives, Delegates, and Resident Commissions; 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., November, 1997)

* * * * * * *

§ 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 mailings 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[1] 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

[1] Section 318 of P.L. 101–163, 103 Stat. 1068, amended "subparagraph (c)" by striking out "is mailed fewer" and inserting "is postmarked fewer". Entered according to probable intent.

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 mailed 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 of the state from which the Member was elected.—

(2) A Delegate, or Resident Commissioner 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.

(3) 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.

(4) 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.

(5)(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.

(6) 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, 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.

§ 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.

§ 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.

§ 3213. Reports from Department of Agriculture

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.

* * * * * * *

§ 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.

§ 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, and Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House), and 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;

(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 appropriation for 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 paraagraph (1) of this section 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 section, will not exceed the amounts available for the fiscal year.

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§ 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.

§ 3219. Mailgrams

Any Mailgram sent by the Vice President, a Member of or Member-elect of Congress, the Secretary of the Senate, the Sergeant at Arms of the Sen-

ate, an elected officer of the House of Representatives (other than a Member of the House), or 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.

§ 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.

NOTE: The amendments made by section I (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 presecribed to carry out such amendments shall cease to be effective after December 31, 2002. [2]

[2] Public Law 105–126, approved December 1, 1997, extended the authorization of use of official mailing to December 31, 2002.

Title 44.—Public Printing and Documents

§ 733. Documents and reports ordered by Members of Congress; franks and envelopes for Members of Congress

The Public Printer on order of a Member of Congress, on prepayment of the cost, may reprint documents and reports of committees together with the evidence papers submitted, or any part ordered printed by the Congress.

He may also furnish without cost to Members and the Resident Commissioner from Puerto Rico, blank franks printed on sheets and perforated, or singly at their option, for public documents. Franks shall contain in the upper left-hand corner the following words: "Public document. United States Senate" or "House of Representatives U.S." and in the upper right-hand corner the letters "U.S.S." or "M.C." Franks may also contain information relating to misiing children as provided in section 3320 of title 39. But he may not print any other words except where it is desirable to affix the official title of a document. Other words printed on franks shall be at the personal expense of the Member or Resident Commissioner ordering them.

At the request of a Member of Congress or Resident Commissioner the Public Printer may print upon franks or envelopes used for mailing public documents the facsimile signature of the Member or Resident Commissioner and a special request for return if not called for, and the name of the state or commonwealth and county and city. The Member or Resident Commissioner shall deposit with his order the extra expense involved in printing these additional words.

The Public Printer may also, at the request of a Member or Resident Commissioner, print on envelopes authorized to be furnished, the name of the Member or Resident Commissioner, and state or Commonwealth, the date, and the topic or subject matter, not exceeding twelve words.

The Public Printer shall deposit moneys accruing under this section in the Treasury of the United States to the credit of the appropriation made for the working capital of the Government Printing Office for the year in which the work is done. He shall account for them in his annual report to Congress.

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§ 907. Congressional Record; extracts for Members of Congress; mailing envelopes

The Public Printer may print and deliver, upon the order of a Member of Congress and payment of the cost, extracts from the Congressional Record. The Public Printer may furnish without cost to Members and the Resident Commissioner, envelopes, ready for mailing the Congressional Record or any part of it, or speeches, or report in it, if such part, speeches,

or reports are mailable as franked mail under section 3210 or title 39. Envelopes so furnished shall contain in the upper left-hand corner the following words: "United States Senate" or "House of Representatives, U.S. Part of Congressional Record.", and in the upper right-hand corner the letters "U.S.S." or "M.C.", and the Public Printer may, at the request of a Member or Resident Commissioner, print in addition to the foregoing, his name and state or commonwealth, the date, and the topic or subject matter, not exceeding twelve words. He may not print any other words on envelopes, except at the personal expense of the Member or Resident Commissioner ordering the envelopes, except to affix the official title of a document. The Public Printer shall deposit moneys accruing under this section in the Treasury of the United States to the credit of the appropriation made for the working capital of the Government Printing Office for the year in which the work is done, and accounted for in his annual report to Congress.

Appendix No. 2

RULES OF THE HOUSE OF REPRESENTATIVES

Rule XLVI—Limitations on the Use of the Frank

1. Any franked mail which is mailed by a Member under section 3210(d) of title 39, United States Code, shall be mailed at the equivalent rate of postage which assures that such mail will be sent by the most economical means practicable.

2. A Member shall, before making any mass 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 such proposed mailing is in compliance with applicable provisions of law, rule, or regulation.

3. Any mass mailing which otherwise is frankable by a Member under the provisions of section 3210(f) of title 39, United States Code, shall not be frankable unless the cost of preparing and printing such mass mailing is defrayed exclusively from funds made available in any appropriations Act.

4. A Member may not send any mass mailing outside the congressional district from which the Member was elected. [1]

5. In the case of any Representative in the House of Representatives, other than a Representative at Large, who is a candidate for any statewide public office, any mass mailing shall not be frankable under section 3210 of title 39, United States Code, when the same is delivered to any address which is not located in the area constituting the congressional district from which any such individual was elected.

6. In the case of any Member, any mass mailing shall not be frankable under section 3210 of title 39, United States Code, when the same is postmarked less than ninety days immediately before the date of any primary or general election (whether regular, special, or runoff) in which such Member is a candidate for public office. 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.

[1] With the enactment of FY 1993 Legislative Branch Act (P.L. 102–392), House Members are prohibited from sending mass mailings outside their districts.

7. For purposes of this rule—

(a) The term "mass mailing" means, with respect to a session in 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—

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

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

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

(b) The term "Member" means any Member of the House of Representatives, a Delegate to the House of Representatives, or the Resident Commissioner in the House of Representatives.

(c) The term "Members of Congress" means Senators and Representatives in, and Delegates and Resident Commissioners to, the Congress.

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