

by the President, by and with the advice and consent of the Senate. Any reorganization plan transmitted by the President containing provisions required by paragraph (4) of this section shall provide for the transfer of unexpended balances only if such balances are used for the purposes for which the appropriation was originally made.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 395; Pub. L. 92-179, §3, Dec. 10, 1971, 85 Stat. 575; Pub. L. 95-17, §2, Apr. 6, 1977, 91 Stat. 31; Pub. L. 98-614, §5(b), Nov. 8, 1984, 98 Stat. 3194.)

## HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 133z-2.	June 20, 1949, ch. 226, §4, 63 Stat. 204.

In paragraph (1), the words “may change” are substituted for “shall change” in view of the discretionary grant of authority reflected by the words “in such cases as the President considers necessary”.

In paragraph (2), the words “competitive service” are substituted for “classified civil service” to conform to the definition in section 2102.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

## AMENDMENTS

1984—Par. (1). Pub. L. 98-614 inserted “, subject to section 905.”.

1977—Pub. L. 95-17 struck out in provisions following par. (5) exception that, in the case of an officer of the government of the District of Columbia, the appointment of the head of an agency may be by the Commissioner or other body of that government designated in the plan.

1971—Pub. L. 92-179 revised the form of the provisions covering the elements which a reorganization plan contains by moving provisions formerly set out in par. (2) to a position following par. (5).

**§ 905. Limitation on powers**

(a) A reorganization plan may not provide for, and a reorganization under this chapter may not have the effect of—

(1) creating a new executive department or renaming an existing executive department, abolishing or transferring an executive department or independent regulatory agency, or all the functions thereof, or consolidating two or more executive departments or two or more independent regulatory agencies, or all the functions thereof;

(2) continuing an agency beyond the period authorized by law for its existence or beyond the time when it would have terminated if the reorganization had not been made;

(3) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;

(4) authorizing an agency to exercise a function which is not expressly authorized by law at the time the plan is transmitted to Congress;

(5) creating a new agency which is not a component or part of an existing executive department or independent agency;

(6) increasing the term of an office beyond that provided by law for the office; or

(7) dealing with more than one logically consistent subject matter.

(b) A provision contained in a reorganization plan may take effect only if the plan is transmitted to Congress (in accordance with section 903(b)) on or before December 31, 1984.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 396; Pub. L. 91-5, Mar. 27, 1969, 83 Stat. 6; Pub. L. 92-179, §4, Dec. 10, 1971, 85 Stat. 576; Pub. L. 95-17, §2, Apr. 6, 1977, 91 Stat. 31; Pub. L. 96-230, Apr. 8, 1980, 94 Stat. 329; Pub. L. 98-614, §§2(a), 5(a), Nov. 8, 1984, 98 Stat. 3192, 3193.)

## HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a) .....	5 U.S.C. 133z-3(a).	June 20, 1949, ch. 226, §5(a), 63 Stat. 205. July 2, 1964, Pub. L. 88-351, §2, 78 Stat. 240.
(b) .....	5 U.S.C. 133z-3(b).	June 20, 1949, ch. 226, §5(b), 63 Stat. 205. Feb. 11, 1953, ch. 3, 67 Stat. 4. Mar. 25, 1955, ch. 16, 69 Stat. 14. Sept. 4, 1957, Pub. L. 85-286, §1, 71 Stat. 611. Apr. 7, 1961, Pub. L. 87-18, 75 Stat. 41. July 2, 1964, Pub. L. 88-351, §1, 78 Stat. 240. June 18, 1965, Pub. L. 89-43, 79 Stat. 135.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

## AMENDMENTS

1984—Subsec. (a)(1). Pub. L. 98-614, §5(a)(1), inserted “or renaming an existing executive department”.

Subsec. (a)(5) to (7). Pub. L. 98-614, §5(a)(2), added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively.

Subsec. (b). Pub. L. 98-614, §2(a), substituted “(in accordance with section 903(b)) on or before December 31, 1984” for “within four years of the date of enactment of the Reorganization Act of 1977”.

1980—Subsec. (b). Pub. L. 96-230 substituted “four years” for “three years”.

1977—Subsec. (a)(1). Pub. L. 95-17 substituted “an executive department or independent regulatory agency,” for “an Executive department” and “or more executive departments or two or more independent regulatory agencies,” for “or more Executive departments”.

Subsec. (a)(6), (7). Pub. L. 95-17 redesignated par. (7) as (6). Former par. (6), which related to limitation on reorganization plans that have effect of transferring to or consolidating with another agency the government of the District of Columbia or all the functions thereof which are subject to this chapter, or abolishing that government or all those functions, was struck out.

Subsec. (b). Pub. L. 95-17 substituted “within three years of the date of enactment of the Reorganization Act of 1977” for “before April 1, 1973”.

1971—Subsec. (a)(7). Pub. L. 92-179, §4(a), added par. (7).

Subsec. (b). Pub. L. 92-179, §4(b), substituted “April 1, 1973” for “April 1, 1971”.

1969—Subsec. (b). Pub. L. 91-5 substituted “April 1, 1971” for “December 31, 1968”.

## PLAN FOR TRANSPORTATION DEPARTMENT REORGANIZATION

Pub. L. 104-50, title III, §335, Nov. 15, 1995, 109 Stat. 458, provided in part that: “notwithstanding 5 U.S.C. 905(b), the President may prepare and transmit to Con-

gress not later than the date for transmittal to Congress of the Budget Request for Fiscal Year 1997, a reorganization plan pursuant to chapter 9 of title 5, United States Code, for the reorganization of the surface transportation activities of the Department of Transportation and the relationship of the Saint Lawrence Seaway Development Corporation to the Department.”

**§ 906. Effective date and publication of reorganization plans**

(a) Except as provided under subsection (c) of this section, a reorganization plan shall be effective upon approval by the President of a resolution (as defined in section 909) with respect to such plan, if such resolution is passed by the House of Representatives and the Senate, within the first period of 90 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress. Failure of either House to act upon such resolution by the end of such period shall be the same as disapproval of the resolution.

(b) For the purpose of this chapter—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

(c) Under provisions contained in a reorganization plan, any provision thereof may be effective at a time later than the date on which the plan otherwise is effective.

(d) A reorganization plan which is effective shall be printed (1) in the Statutes at Large in the same volume as the public laws and (2) in the Federal Register.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 396; Pub. L. 95-17, § 2, Apr. 6, 1977, 91 Stat. 32; Pub. L. 98-614, § 3(a), Nov. 8, 1984, 98 Stat. 3192.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a)-(c) .....	5 U.S.C. 133z-4.	June 20, 1949, ch. 226, § 6, 63 Stat. 205. Sept. 4, 1957, Pub. L. 85-286, § 2, 71 Stat. 611.
(d) .....	5 U.S.C. 133z-9.	June 20, 1949, ch. 226, § 11, 63 Stat. 206.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-614, § 3(a)(1), struck out “otherwise” before “provided under subsection (c)”, substituted “shall be” for “is” before “effective”, and substituted “upon approval by the President of a resolution (as defined in section 909) with respect to such plan, if such resolution is passed by the House of Representatives and the Senate, within the first period of 90 calendar days of continuous session of Congress after the date on which the plan is transmitted to Congress. Failure of either House to act upon such resolution by the end of such period shall be the same as disapproval of the resolution” for “at the end of the first period of sixty calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the sixty-day period, either House passes a resolution stating in substance that the House does not favor the reorganization plan.”

Subsec. (c). Pub. L. 98-614, § 3(a)(2), struck out before period at end “or, if both Houses of Congress have defeated a resolution of disapproval, may be effective at a time earlier than the expiration of the sixty-day period required by subsection (a)”.

1977—Subsec. (a). Pub. L. 95-17 substituted “sixty” for “60” in two places.

Subsec. (b). Pub. L. 95-17 substituted in provisions preceding par. (1) “this chapter” for “subsection (a) of this section” and in par. (2) “any period of time in which Congress is in continuous session” for “the 60-day period”.

Subsec. (c). Pub. L. 95-17 inserted provision that if both Houses of Congress have defeated a resolution of disapproval, the provision of a reorganization plan may be effective at a time earlier than the expiration of the sixty-day period required by subsec. (a).

Subsec. (d). Pub. L. 95-17 reenacted subsec. (d) without change.

RATIFICATION AND AFFIRMATION OF PRIOR REORGANIZATION PLANS AS LAW; ACTIONS TAKEN PURSUANT TO SUCH PLANS

Pub. L. 98-532, Oct. 19, 1984, 98 Stat. 2705, provided that:

“SECTION 1. The Congress hereby ratifies and affirms as law each reorganization plan that has, prior to the date of enactment of this Act [Oct. 19, 1984], been implemented pursuant to the provisions of chapter 9 of title 5, United States Code, or any predecessor Federal reorganization statute.

“SEC. 2. Any actions taken prior to the date of enactment of this Act [Oct. 19, 1984] pursuant to a reorganization plan that is ratified and affirmed by section 1 shall be considered to have been taken pursuant to a reorganization expressly approved by Act of Congress.”

**§ 907. Effect on other laws, pending legal proceedings, and unexpended appropriations**

(a) A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this chapter, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in the agency from which it is removed under the reorganization plan, the function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed by the plan.

(b) For the purpose of subsection (a) of this section, “regulation or other action” means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(c) A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, does not abate by reason of the taking effect of a reorganization plan under this chapter. On motion or supplemental petition filed at any time within twelve months after the reorganization plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be main-