

9. Executive Reorganization 901

AMENDMENTS

1996—Pub. L. 104-121, title II, §253, Mar. 29, 1996, 110 Stat. 874, added item for chapter 8.

CHAPTER 1—ORGANIZATION

- Sec. 101. Executive departments.
- 102. Military departments.
- 103. Government corporation.
- 104. Independent establishment.
- 105. Executive agency.

§ 101. Executive departments

The Executive departments are:

- The Department of State.
- The Department of the Treasury.
- The Department of Defense.
- The Department of Justice.
- The Department of the Interior.
- The Department of Agriculture.
- The Department of Commerce.
- The Department of Labor.
- The Department of Health and Human Services.
- The Department of Housing and Urban Development.
- The Department of Transportation.
- The Department of Energy.
- The Department of Education.
- The Department of Veterans Affairs.
- The Department of Homeland Security.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378; Pub. L. 89-670, §10(b), Oct. 15, 1966, 80 Stat. 948; Pub. L. 91-375, §6(c)(1), Aug. 12, 1970, 84 Stat. 775; Pub. L. 95-91, title VII, §710(a), Aug. 4, 1977, 91 Stat. 609; Pub. L. 96-88, title V, §508(b), Oct. 17, 1979, 93 Stat. 692; Pub. L. 100-527, §13(b), Oct. 25, 1988, 102 Stat. 2643; Pub. L. 109-241, title IX, §902(a)(1), July 11, 2006, 120 Stat. 566.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 1.	R.S. §158. Feb. 9, 1889, ch. 122, §1 (38th through 54th words), 25 Stat. 659. Feb. 14, 1903, ch. 552, §1 (83d through 99th words), 32 Stat. 825. Mar. 4, 1913, ch. 141, §1 (75th through 91st words), 37 Stat. 736. Aug. 10, 1949, ch. 412, §4 "Sec. 201(c)", 63 Stat. 579. July 31, 1956, ch. 802, §1(a), 70 Stat. 732.
.....	5 U.S.C. 2.	R.S. §159.

The reference in former section 1 to the application of the provisions of this title, referring to title IV of the Revised Statutes, is omitted as unnecessary as the application of those provisions is stated in the text.

The statement in former section 2 that the use of the word "department" means one of the Executive departments named in former section 1 is omitted as unnecessary as the words "Executive department" are used in this title when Executive department is meant.

"The Department of Commerce" is substituted for "The Department of Commerce and Labor" on authority of the act of March 4, 1913, ch. 141, §1, 37 Stat. 736.

AMENDMENTS

2006—Pub. L. 109-241 inserted "The Department of Homeland Security."

1988—Pub. L. 100-527 inserted "The Department of Veterans Affairs."

1979—Pub. L. 96-88 substituted "Department of Health and Human Services" for "Department of Health, Education, and Welfare" and inserted "The Department of Education."

1977—Pub. L. 95-91 inserted "The Department of Energy."

1970—Pub. L. 91-375 struck out "The Post Office Department."

1966—Pub. L. 89-670 inserted "The Department of Housing and Urban Development." and "The Department of Transportation."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100-527, set out as a Department of Veterans Affairs Act note under section 301 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96-88, set out as an Effective Date note under section 3401 of Title 20, Education.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective Apr. 1, 1967, as prescribed by the President and published in the Federal Register, see section 16(a), formerly §15(a), of Pub. L. 89-670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112-230, §1, Dec. 28, 2012, 126 Stat. 1616, provided that: "This Act [enacting section 7326 of this title, amending sections 1501, 1502, 1506, 7322, and 7325 of this title, repealing former section 7326 of this title, and enacting provisions set out as notes under sections 1501 and 7326 of this title] may be cited as the 'Hatch Act Modernization Act of 2012'."

Pub. L. 112-199, §1, Nov. 27, 2012, 126 Stat. 1465, provided that: "This Act [enacting section 2304 of this title, amending sections 1204, 1212, 1214, 1215, 1221, 2302, and 7703 of this title, sections 3 and 8D of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to this title, and section 133 of Title 6, Domestic Security, renumbering sections 2304 and 2305 of this title as sections 2305 and 2306, respectively, of this title and enacting provisions set out as notes under sections 1204, 2302, and 2304 of this title, section 3 of the Inspector General Act of 1978, and section 1116 of Title 31, Money and Finance] may be cited as the 'Whistleblower Protection Enhancement Act of 2012'."

Pub. L. 112-166, §1, Aug. 10, 2012, 126 Stat. 1283, provided that: "This Act [see Tables for classification] may be cited as the 'Presidential Appointment Efficiency and Streamlining Act of 2011'."

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111-292, §1, Dec. 9, 2010, 124 Stat. 3165, provided that: "This Act [enacting chapter 65 and section 5711 of this title and provisions set out as a note under section 6501 of this title and amending provisions set out as a note and provisions listed in a table under section 6120 of this title] may be cited as the 'Telework Enhancement Act of 2010'."

Pub. L. 111-282, §1(a), Oct. 15, 2010, 124 Stat. 3033, provided that: "This Act [enacting chapter 102 of this title, amending sections 5102, 5541, 6304, and 6324 of this title,

enacting provisions set out as notes under sections 5102 and 10201 of this title, and amending provisions set out as notes under section 3056A of Title 18, Crimes and Criminal Procedure) may be cited as the ‘United States Secret Service Uniformed Division Modernization Act of 2010’.”

Pub. L. 111-178, §1, June 9, 2010, 124 Stat. 1262, provided that: “This Act [enacting section 5724d of this title and provisions set out as a note under section 5724d of this title] may be cited as the ‘Special Agent Samuel Hicks Families of Fallen Heroes Act’.”

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111-83, title V, §564(a), Oct. 28, 2009, 123 Stat. 2184, provided that: “This section [amending section 552 of this title] may be cited as the ‘OPEN FOIA Act of 2009’.”

Pub. L. 111-31, div. B, §100(a), June 22, 2009, 123 Stat. 1852, provided that: “This division [enacting sections 8432d and 8480 of this title, amending sections 8432, 8433, 8437 to 8439, and 8477 of this title and section 1450 of Title 10, Armed Forces, and enacting provisions set out as notes under this section and section 8439 of this title] may be cited as the ‘Federal Retirement Reform Act of 2009’.”

Pub. L. 111-31, div. B, title I, §101, June 22, 2009, 123 Stat. 1853, provided that: “This title [enacting sections 8432d and 8480 of this title, amending sections 8432, 8433, 8437 to 8439, and 8477 of this title, and enacting provisions set out as a note under section 8439 of this title] may be cited as the ‘Thrift Savings Plan Enhancement Act of 2009’.”

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110-372, §1, Oct. 8, 2008, 122 Stat. 4043, provided that: “This Act [amending sections 3104, 3324, 3325, 5108, 5304, 5307 and 5376 of this title and enacting provisions set out as notes under sections 5307 and 5376 of this title] may be cited as the ‘Senior Professional Performance Act of 2008’.”

Pub. L. 110-290, §1, July 30, 2008, 122 Stat. 2914, provided that: “This Act [amending section 596 of this title] may be cited as the ‘Regulatory Improvement Act of 2007’.”

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110-175, §1, Dec. 31, 2007, 121 Stat. 2524, provided that: “This Act [amending section 552 of this title and enacting provisions set out as notes under section 552 of this title] may be cited as the ‘Openness Promotes Effectiveness in our National Government Act of 2007’ or the ‘OPEN Government Act of 2007’.”

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109-435, title VIII, §801, Dec. 20, 2006, 120 Stat. 3249, provided that: “This title [enacting section 8909a of this title, amending sections 8334, 8348, and 8906 of this title, enacting provisions set out as notes under sections 8334, 8348, and 8909a of this title, and repealing provisions set out as a note preceding section 2001 of Title 39, Postal Service] may be cited as the ‘Postal Civil Service Retirement and Health Benefits Funding Amendments of 2006’.”

Pub. L. 109-356, §1(a), Oct. 16, 2006, 120 Stat. 2019, provided that: “This Act [amending sections 5102, 8951, 8981, and 9001 of this title, sections 202, 214, 215b, 216, 216a, 221, 321, and 1813 of Title 12, Banks and Banking, and section 57a of Title 15, Commerce and Trade] may be cited as the ‘2005 District of Columbia Omnibus Authorization Act’.”

SHORT TITLE OF 2004 AMENDMENTS

Pub. L. 108-496, §1, Dec. 23, 2004, 118 Stat. 4001, provided that: “This Act [enacting chapters 89A and 89B of this title, amending section 1005 of Title 39, Postal Service, and enacting provisions set out as a note under section 8951 of this title] may be cited as the ‘Federal Employee Dental and Vision Benefits Enhancement Act of 2004’.”

Pub. L. 108-469, §1(a), Dec. 21, 2004, 118 Stat. 3891, provided that: “This Act [amending sections 8351, 8432, 8433, 8439, and 8440a to 8440e of this title and enacting provisions set out as a note under section 8350 of this title] may be cited as the ‘Thrift Savings Plan Open Elections Act of 2004’.”

Pub. L. 108-411, §1(a), Oct. 30, 2004, 118 Stat. 2305, provided that: “This Act [enacting sections 4121, 5550b, 5753, and 5754 of this title, amending sections 4103, 4505a, 5302, 5304, 5305, 5314, 5334, 5361, 5363, 5365, 5377, and 6303 of this title, repealing former sections 5753 and 5754 of this title, enacting provisions set out as notes under sections 5304, 5363, 5550b, 5753, and 6303 of this title, and amending provisions set out as a note under section 5305 of this title] may be cited as the ‘Federal Workforce Flexibility Act of 2004’.”

Pub. L. 108-401, §1, Oct. 30, 2004, 118 Stat. 2255, provided that: “This Act [amending sections 591, 594, and 596 of this title] may be cited as the ‘Federal Regulatory Improvement Act of 2004’.”

Pub. L. 108-201, §1, Feb. 24, 2004, 118 Stat. 461, provided that: “This Act [enacting chapter 98 of this title, amending section 2473 of Title 42, The Public Health and Welfare, and enacting provisions set out as a note under section 2473 of Title 42] may be cited as the ‘NASA Flexibility Act of 2004’.”

SHORT TITLE OF 2003 AMENDMENTS

Pub. L. 108-196, §1, Dec. 19, 2003, 117 Stat. 2896, provided that: “This Act [enacting provisions set out as a note under section 3371 of this title] may be cited as the ‘Federal Law Enforcement Pay and Benefits Parity Act of 2003’.”

Pub. L. 108-123, §1, Nov. 11, 2003, 117 Stat. 1345, provided that: “This Act [amending section 5379 of this title] may be cited as the ‘Federal Employee Student Loan Assistance Act’.”

Pub. L. 108-44, §1, July 3, 2003, 117 Stat. 842, provided that: “This Act [enacting section 3114 of this title] may be cited as the ‘Accountant, Compliance, and Enforcement Staffing Act of 2003’.”

Pub. L. 108-18, §1, Apr. 23, 2003, 117 Stat. 624, provided that: “This Act [amending sections 8331, 8334, and 8348 of this title, enacting provisions set out as notes under sections 8334 and 8348 of this title and preceding section 2001 of Title 39, Postal Service, and repealing provisions set out as a note under section 8348 of this title] may be cited as the ‘Postal Civil Service Retirement System Funding Reform Act of 2003’.”

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107-296, title XIII, §1301, Nov. 25, 2002, 116 Stat. 2287, provided that: “This title [enacting chapter 14 of this title, subchapter II of chapter 35 of this title, and section 3319 of this title, amending sections 1103, 3111, 3304, 3393, 3592 to 3594, 4107, 5307, 7701, 7905, 8336, 8339, 8414, and 8421 of this title, sections 1115 and 1116 of Title 31, Money and Finance, and section 1902 of Title 50, War and National Defense, repealing section 3393a of this title, enacting provisions set out as notes under sections 1103, 1401, 3301, 3521, 3592, 3593, and 8336 of this title, and repealing provisions set out as notes under sections 8336 and 8414 of this title] may be cited as the ‘Chief Human Capital Officers Act of 2002’.”

SHORT TITLE OF 2001 AMENDMENT

Pub. L. 107-27, §1, Aug. 20, 2001, 115 Stat. 207, provided that: “This Act [amending sections 8335 and 8425 of this title] may be cited as the ‘Federal Firefighters Retirement Age Fairness Act’.”

PROHIBITION AGAINST CONSTRUCTION THAT WOULD RENDER APPLICABLE TO THE DEPARTMENT OF TRANSPORTATION PROVISIONS OF LAW INCONSISTENT WITH PUB. L. 89-670 CREATING THE DEPARTMENT OF TRANSPORTATION

Pub. L. 89-670, §10(c), Oct. 15, 1966, 80 Stat. 948, which provided that the amendment made to this section by section 10(b) of Pub. L. 89-670 was not to be construed

to make applicable to the Department any provision of law inconsistent with Pub. L. 89-670, was repealed by Pub. L. 104-287, §7(5), Oct. 11, 1996, 110 Stat. 3400.

§ 102. Military departments

The military departments are:
The Department of the Army.
The Department of the Navy.
The Department of the Air Force.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.)

HISTORICAL AND REVISION NOTES

The section is supplied to avoid the necessity for defining "military departments" each time it is used in this title. See section 101(7) of title 10.

§ 103. Government corporation

For the purpose of this title—
(1) "Government corporation" means a corporation owned or controlled by the Government of the United States; and
(2) "Government controlled corporation" does not include a corporation owned by the Government of the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.)

HISTORICAL AND REVISION NOTES

The section is supplied to avoid the necessity for defining "Government corporation" and "Government controlled corporation" each time it is used in this title.

§ 104. Independent establishment

For the purpose of this title, "independent establishment" means—

- (1) an establishment in the executive branch (other than the United States Postal Service or the Postal Regulatory Commission) which is not an Executive department, military department, Government corporation, or part thereof, or part of an independent establishment; and
- (2) the Government Accountability Office.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 379; Pub. L. 91-375, §6(c)(2), Aug. 12, 1970, 84 Stat. 775; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109-435, title VI, §604(b), Dec. 20, 2006, 120 Stat. 3241.)

HISTORICAL AND REVISION NOTES

The section is supplied to avoid the necessity for defining "independent establishment" each time it is used in this title.

Certain agencies are not independent establishments under the definition since they are constituent agencies or parts of an independent establishment. However, these agencies would continue to be subject to the provisions of this title applicable to the independent establishment of which they are a constituent or part. Also, the definition does not expand or abridge any rights or authority possessed by these agencies as no substantive changes are intended, see section 7(a) of the bill.

AMENDMENTS

2006—Par. (1). Pub. L. 109-435 substituted "Postal Regulatory Commission" for "Postal Rate Commission".

2004—Par. (2). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office".

1970—Par. (1). Pub. L. 91-375 inserted "(other than the United States Postal Service or the Postal Rate Commission)" after "executive branch".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

§ 105. Executive agency

For the purpose of this title, "Executive agency" means an Executive department, a Government corporation, and an independent establishment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 379.)

HISTORICAL AND REVISION NOTES

The section is supplied to avoid the necessity for defining "Executive agency" each time it is used in this title.

CHAPTER 3—POWERS

- Sec. 301. Departmental regulations.
- 302. Delegation of authority.
- 303. Oaths to witnesses.
- 304. Subpenas.
- 305. Systematic agency review of operations.
- 306. Agency strategic plans.

AMENDMENTS

2011—Pub. L. 111-352, §13(a), Jan. 4, 2011, 124 Stat. 3882, added item 306 and struck out former item 306 "Strategic plans".

1993—Pub. L. 103-62, §11(a), Aug. 3, 1993, 107 Stat. 295, added item 306.

§ 301. Departmental regulations

The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 379.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 22.	R.S. §161. Aug. 12, 1958, Pub. L. 85-619, 72 Stat. 547.

The words "Executive department" are substituted for "department" as the definition of "department" applicable to this section is coextensive with the definition of "Executive department" in section 101. The words "not inconsistent with law" are omitted as surplusage as a regulation which is inconsistent with law is invalid.

The words "or military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However,