

**CHAPTER 43—DEPARTMENT OF HEALTH  
AND HUMAN SERVICES**

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**SUBCHAPTER I—GENERAL PROVISIONS**

**§ 3501. Establishment of Department; effective date**

The provisions of Reorganization Plan Numbered 1 of 1953, submitted to the Congress on March 12, 1953, shall take effect ten days after April 1, 1953, and its approval by the President, notwithstanding the provisions of the Reorganization Act of 1949, as amended, except that section 9 of such Act shall apply to such reorganization plan and to the reorganization made thereby.

(Apr. 1, 1953, ch. 14, 67 Stat. 18.)

REFERENCES IN TEXT

Reorganization Plan Numbered 1 of 1953, referred to in text, is Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18

F.R. 2053, 67 Stat. 631, which is set out as a note below and in the Appendix to Title 5, Government Organization and Employees.

The Reorganization Act of 1949, as amended, referred to in text, is act June 20, 1949, ch. 226, 63 Stat. 203, which enacted sections 133z to 133z-15 of former Title 5, Executive Departments and Government Officers and Employees. Sections 133z to 133z-15 of former Title 5 were repealed and reenacted as sections 901 to 913 of Title 5, Government Organizations and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378. Section 913 of Title 5 has been omitted from the Code. Section 9 of the Reorganization Act of 1949, which enacted section 133z-7 of former Title 5, was also repealed and reenacted as section 907(a) to (c) of Title 5 by Pub. L. 89-554.

CODIFICATION

Section was formerly classified to section 623 of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 1, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness [now Assistant Secretary for Preparedness and Response] relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(5) and (6), and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Secretary of Health and Human Services, see Parts 1, 2, and 8 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of this title.

ORDER OF SUCCESSION

For order of succession during any period when both Secretary and Deputy Secretary of Health and Human Services are unable to perform functions and duties of office of Secretary, see Ex. Ord. No. 13250, Dec. 28, 2001, 67 F.R. 1597, listed in a table under section 3345 of Title 5, Government Organization and Employees.

REDUCING ADMINISTRATIVE BURDEN FOR RESEARCHERS

Pub. L. 114-255, div. A, title II, §2034, Dec. 13, 2016, 130 Stat. 1059, provided that:

“(a) PLAN PREPARATION AND IMPLEMENTATION OF MEASURES TO REDUCE ADMINISTRATIVE BURDENS.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act [Dec. 13, 2016], the Secretary of Health and Human Services (referred to in this section as the ‘Secretary’) shall—

“(A) lead a review by research funding agencies of all regulations and policies related to the disclosure of financial conflicts of interest, including the minimum threshold for reporting financial conflicts of interest;

“(B) make revisions, as appropriate, to harmonize existing policies and reduce administrative burden on researchers while maintaining the integrity and credibility of research findings and protections of human participants; and

“(C) confer with the Office of the Inspector General about the activities of such office related to financial conflicts of interest involving research funding agencies.

“(2) CONSIDERATIONS.—In updating policies under paragraph (1)(B), the Secretary shall consider—

“(A) modifying the timelines for the reporting of financial conflicts of interest to just-in-time infor-

mation by institutions receiving grant or cooperative agreement funding from the National Institutes of Health;

“(B) ensuring that financial interest disclosure reporting requirements are appropriate for, and relevant to, awards that will directly fund research, which may include modification of the definition of the term ‘investigator’ for purposes of the regulations and policies described in subparagraphs (A) and (B) of paragraph (1); and

“(C) updating any applicable training modules of the National Institutes of Health related to Federal financial interest disclosure.

“(b) MONITORING OF SUBRECIPIENTS OF FUNDING FROM THE NATIONAL INSTITUTES OF HEALTH.—The Director of the National Institutes of Health (referred to in this section as the ‘Director of National Institutes of Health’) shall implement measures to reduce the administrative burdens related to monitoring of subrecipients of grants by primary awardees of funding from the National Institutes of Health, which may incorporate findings and recommendations from existing and ongoing activities. Such measures may include, as appropriate—

“(1) an exemption from subrecipient monitoring requirements, upon request from the primary awardees, provided that—

“(A) the subrecipient is subject to Federal audit requirements pursuant to the Uniform Guidance of the Office of Management and Budget;

“(B) the primary awardee conducts, pursuant to guidance of the National Institutes of Health, a pre-award evaluation of each subrecipient’s risk of non-compliance with Federal statutes and regulations, the conditions of the subaward, and any recurring audit findings; and

“(C) such exemption does not absolve the primary awardee of liability for misconduct by subrecipients; and

“(2) the implementation of alternative grant structures that obviate the need for subrecipient monitoring, which may include collaborative grant models allowing for multiple primary awardees.

“(c) REPORTING OF FINANCIAL EXPENDITURES.—The Secretary, in consultation with the Director of National Institutes of Health, shall evaluate financial expenditure reporting procedures and requirements for recipients of funding from the National Institutes of Health and take action, as appropriate, to avoid duplication between department and agency procedures and requirements and minimize burden to funding recipients.

“(d) ANIMAL CARE AND USE IN RESEARCH.—Not later than 2 years after the date of enactment of this Act [Dec. 13, 2016], the Director of National Institutes of Health, in collaboration with the Secretary of Agriculture and the Commissioner of Food and Drugs, shall complete a review of applicable regulations and policies for the care and use of laboratory animals and make revisions, as appropriate, to reduce administrative burden on investigators while maintaining the integrity and credibility of research findings and protection of research animals. In carrying out this effort, the Director of the National Institutes of Health shall seek the input of experts, as appropriate. The Director of the National Institutes of Health shall—

“(1) identify ways to ensure such regulations and policies are not inconsistent, overlapping, or unnecessarily duplicative, including with respect to inspection and review requirements by Federal agencies and accrediting associations;

“(2) take steps to eliminate or reduce identified inconsistencies, overlap, or duplication among such regulations and policies; and

“(3) take other actions, as appropriate, to improve the coordination of regulations and policies with respect to research with laboratory animals.

“(e) DOCUMENTATION OF PERSONNEL EXPENSES.—The Secretary shall clarify the applicability of the requirements under the Office of Management and Budget Uni-

form Guidance for management and certification systems adopted by entities receiving Federal research grants through the Department of Health and Human Services regarding documentation of personnel expenses, including clarification of the extent to which any flexibility to such requirements specified in such Uniform Guidance applies to entities receiving grants through the Department of Health and Human Services.

“(f) RESEARCH POLICY BOARD.—

“(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act [Dec. 13, 2016], the Director of the Office of Management and Budget shall establish an advisory committee, to be known as the ‘Research Policy Board’ (referred to in this subsection as the ‘Board’), to provide Federal Government officials with information on the effects of regulations related to Federal research requirements.

“(2) MEMBERSHIP.—

“(A) IN GENERAL.—The Board shall include not more than 10 Federal members, including each of the following Federal members or their designees:

“(i) The Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget.

“(ii) The Director of the Office of Science and Technology Policy.

“(iii) The Secretary of Health and Human Services.

“(iv) The Director of the National Science Foundation.

“(v) The secretaries and directors of other departments and agencies that support or regulate scientific research, as determined by the Director of the Office of Management and Budget.

“(B) NON-FEDERAL MEMBERS.—The Board shall be comprised of not less than 9 and not more than 12 representatives of academic research institutions, other private, nonprofit research institutions, or other nonprofit organizations with relevant expertise. Such members shall be appointed by a formal process, to be established by the Director of the Office of Management and Budget, in consultation with the Federal membership, and that incorporates—

“(i) nomination by members of the nonprofit scientific research community, including academic research institutions; and

“(ii) procedures to fill membership positions vacated before the end of a member’s term.

“(3) PURPOSE AND RESPONSIBILITIES.—The Board shall make recommendations regarding the modification and harmonization of regulations and policies having similar purposes across research funding agencies to ensure that the administrative burden of such research policy and regulation is minimized to the greatest extent possible and consistent with maintaining responsible oversight of federally funded research. Activities of the Board may include—

“(A) providing thorough and informed analysis of regulations and policies;

“(B) identifying negative or adverse consequences of existing policies and making actionable recommendations regarding possible improvement of such policies;

“(C) making recommendations with respect to efforts within the Federal Government to improve coordination of regulation and policy related to research;

“(D) creating a forum for the discussion of research policy or regulatory gaps, challenges, clarification, or harmonization of such policies or regulation, and best practices; and

“(E) conducting ongoing assessment and evaluation of regulatory burden, including development of metrics, periodic measurement, and identification of process improvements and policy changes.

“(4) EXPERT SUBCOMMITTEES.—The Board may form temporary expert subcommittees, as appropriate, to develop timely analysis on pressing issues and assist

the Board in anticipating future regulatory challenges, including challenges emerging from new scientific advances.

“(5) REPORTING REQUIREMENTS.—Not later than 2 years after the date of enactment of this Act, and once thereafter, the Board shall submit a report to the Director of the Office of Management and Budget, the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, the Director of the Office of Science and Technology Policy, the heads of relevant Federal departments and agencies, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Energy and Commerce of the House of Representatives containing formal recommendations on the conceptualization, development, harmonization, and reconsideration of scientific research policy, including the regulatory benefits and burdens.

“(6) SUNSET.—The Board shall terminate on September 30, 2021.

“(7) GAO REPORT.—Not later than 4 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct an independent evaluation of the activities carried out by the Board pursuant to this subsection and submit to the appropriate committees of Congress a report regarding the results of the independent evaluation. Such report shall review and assess the Board’s activities with respect to the responsibilities described in paragraph (3).”

#### DATA COLLECTION RELATING TO RACE OR ETHNICITY

Pub. L. 106-525, title III, §301, Nov. 22, 2000, 114 Stat. 2507, provided that:

“(a) STUDY.—The National Academy of Sciences shall conduct a comprehensive study of the Department of Health and Human Services’ data collection systems and practices, and any data collection or reporting systems required under any of the programs or activities of the Department, relating to the collection of data on race or ethnicity, including other Federal data collection systems (such as the Social Security Administration) with which the Department interacts to collect relevant data on race and ethnicity.

“(b) REPORT.—Not later than 1 year after the date of enactment of this Act [Nov. 22, 2000], the National Academy of Sciences shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Commerce [now Committee on Energy and Commerce] of the House of Representatives, a report that—

“(1) identifies the data needed to support efforts to evaluate the effects of socioeconomic status, race and ethnicity on access to health care and other services and on disparity in health and other social outcomes and the data needed to enforce existing protections for equal access to health care;

“(2) examines the effectiveness of the systems and practices of the Department of Health and Human Services described in subsection (a), including pilot and demonstration projects of the Department, and the effectiveness of selected systems and practices of other Federal, State, and tribal agencies and the private sector, in collecting and analyzing such data;

“(3) contains recommendations for ensuring that the Department of Health and Human Services, in administering its entire array of programs and activities, collects, or causes to be collected, reliable and complete information relating to race and ethnicity; and

“(4) includes projections about the costs associated with the implementation of the recommendations described in paragraph (3), and the possible effects of the costs on program operations.

“(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for fiscal year 2001.”

#### UNDER SECRETARY RETITLED DEPUTY SECRETARY

Pub. L. 101-509, title V, §529 [title I, §112(a)(1)], Nov. 5, 1990, 104 Stat. 1427, 1454, provided that: “The position of Under Secretary of Health and Human Services, established by section 2 of Reorganization Plan No. 1 of 1953 (67 Stat. 631) [set out below], is retitled the Deputy Secretary of Health and Human Services.”

[Section 529 [title I, §112(a)(1)] of Pub. L. 101-509 effective on first day of first pay period that begins on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of Health and Human Services, see section 529 [title I, §112(e)(1), (2)(A)] of Pub. L. 101-509, set out as an Effective Date of 1990 Amendment; Continued Service by Incumbents note under section 3404 of Title 20, Education.]

#### INVESTIGATION OF YOUTH CAMP SAFETY

Pub. L. 92-318, title VI, §§601-603, June 23, 1972, 86 Stat. 353, 354, authorized the Secretary of Health, Education, and Welfare to make a study of the field of youth camp safety to determine the need for Federal legislation, required the Secretary to submit a report on his investigation to the Congress before Mar. 1, 1973, and authorized \$300,000 in appropriations to carry out the study.

#### REORGANIZATION PLAN NO. 1 OF 1953

Eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, as amended Sept. 11, 1967, Pub. L. 90-83, §10(c), 81 Stat. 224

Prepared by the President and transmitted to the Senate and to the House of Representatives in Congress assembled, March 12, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see 5 U.S.C. 901 et seq.].

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

##### SECTION 1. CREATION OF DEPARTMENT; SECRETARY

There is hereby established an executive department, which shall be known as the Department of Health, Education, and Welfare (hereafter in this reorganization plan referred to as the Department). There shall be at the head of the Department a Secretary of Health, Education, and Welfare (hereafter in this reorganization plan referred to as the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate, and who shall receive compensation at the rate now or hereafter prescribed by law for the heads of executive departments. The Department shall be administered under the supervision and direction of the Secretary.

##### SEC. 2. UNDER SECRETARY AND ASSISTANT SECRETARIES

There shall be in the Department an Under Secretary of Health, Education, and Welfare and two Assistant Secretaries of Health, Education, and Welfare, each of whom shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter provided by law for under secretaries and assistant secretaries, respectively, of executive departments. The Under Secretary (or, during the absence or disability of the Under Secretary or in the event of a vacancy in the office of Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe) shall act as Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

##### SEC. 3. SPECIAL ASSISTANT

[Repealed. Pub. L. 90-83, §10(c), Sept. 11, 1967, 81 Stat. 224. Section provided for the appointment of Special Assistant to the Secretary (Health and Medical Affairs).]

## SEC. 4. COMMISSIONER OF SOCIAL SECURITY

There shall be in the Department a Commissioner of Social Security who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions concerning social security and public welfare as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter fixed by law for grade GS-18 of the general schedule established by the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees].

## SEC. 5. TRANSFERS TO THE DEPARTMENT

All functions of the Federal Security Administrator are hereby transferred to the Secretary. All agencies of the Federal Security Agency, together with their respective functions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), and all other functions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) of the Federal Security Agency are hereby transferred to the Department.

## SEC. 6. PERFORMANCE OF FUNCTIONS OF THE SECRETARY

The Secretary may from time to time make such provisions as the Secretary deems appropriate authorizing the performance of any of the functions of the Secretary by any other officer, or by any agency or employee, of the Department.

## SEC. 7. ADMINISTRATIVE SERVICE

In the interest of economy and efficiency the Secretary may from time to time establish central administrative services in the fields of procurement, budgeting, accounting, personnel, library, legal, and other services and activities common to the several agencies of the Department; and the Secretary may effect such transfers within the Department of the personnel employed, the property and records used or held, and the funds available for use in connection with such administrative-service activities as the Secretary may deem necessary for the conduct of any services so established: *Provided*, That no professional or substantive function vested by law in any officer shall be removed from the jurisdiction of such officer under this section.

## SEC. 8. ABOLITIONS

The Federal Security Agency (exclusive of the agencies thereof transferred by section 5 of this reorganization plan), the offices of Federal Security Administrator and Assistant Federal Security Administrator created by Reorganization Plan No. 1 [of 1939] (53 Stat. 1423), the two offices of assistant heads of the Federal Security Agency created by Reorganization Plan No. 2 of 1946 (60 Stat. 1095), and the office for Commissioner for Social Security created by section 701 of the Social Security Act, as amended (64 Stat. 558) [former section 901 of this title], are hereby abolished. The Secretary shall make such provisions as may be necessary in order to wind up any outstanding affairs of the Agency and offices abolished by this section which are not otherwise provided for in this reorganization plan.

## SEC. 9. INTERIM PROVISIONS

The President may authorize the persons who immediately prior to the time this reorganization plan takes effect occupy the offices of Federal Security Administrator, Assistant Federal Security Administrator, assistant heads of the Federal Security Agency, and Commissioner for Social Security to act as Secretary, Under Secretary, and Assistant Secretaries of Health, Education, and Welfare, and as Commissioner of Social Security, respectively, until those offices are filled by appointment in the manner provided by sections 1, 2, and 4 of this reorganization plan, but not for a period

of more than 60 days. While so acting, such persons shall receive compensation at the rates provided by this reorganization plan for the offices the functions of which they perform.

[The Secretary and Department of Health, Education, and Welfare were redesignated the Secretary and Department of Health and Human Services, respectively, by 20 U.S.C. 3508. For transfer of functions and offices (relating to education) of the Secretary and Department of Health, Education, and Welfare to the Secretary and Department of Education, and termination of certain offices and positions, see 20 U.S.C. 3441 and 3503.]

## MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1953, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended.

In my message of February 2, 1953, I stated that I would send to the Congress a reorganization plan defining a new administrative status for Federal activities in health, education, and social security. This plan carries out that intention by creating a Department of Health, Education, and Welfare as one of the executive departments of the Government and by transferring to it the various units of the Federal Security Agency. The Department will be headed by a Secretary of Health, Education, and Welfare, who will be assisted by an Under Secretary and two Assistant Secretaries.

The purpose of this plan is to improve the administration of the vital health, education, and social-security functions now being carried on in the Federal Security Agency by giving them departmental rank. Such action is demanded by the importance and magnitude of these functions, which affect the well-being of millions of our citizens. The programs carried on by the Public Health Service include, for example, the conduct and promotion of research into the prevention and cure of such dangerous ailments as cancer and heart disease. The Public Health Service also administers payments to the States for the support of their health services and for urgently needed hospital construction. The Office of Education collects, analyzes, and distributes to school administrators throughout the country information relating to the organization and management of educational systems. Among its other functions is the provision of financial help to school districts burdened by activities of the United States Government. State assistance to the aged, the blind, the totally disabled, and dependent children is heavily supported by grants-in-aid administered through the Social Security Administration. The old-age and survivors insurance system and child development and welfare programs are additional responsibilities of that Administration. Other offices of the Federal Security Agency are responsible for the conduct of Federal vocational rehabilitation programs and for the enforcement of food and drug laws.

There should be an unremitting effort to improve those health, education, and social-security programs which have proved their value. I have already recommended the expansion of the social-security system to cover persons not now protected, the continuation of assistance to school districts whose population has been greatly increased by the expansion of defense activities, and the strengthening of our food and drug laws.

But good intent and high purpose are not enough; all such programs depend for their success upon efficient, responsible administration. I have recently taken action to assure that the Federal Security Administrator's views are given proper consideration in executive councils by inviting her to attend meetings of the Cabinet. Now the establishment of the new Department provided for in Reorganization Plan No. 1 of 1953 will give the needed additional assurance that these matters will receive the full consideration they deserve in the whole operation of the Government.

This need has long been recognized. In 1923, President Harding proposed a Department of Education and Wel-

fare, which was also to include health functions. In 1924, the Joint Committee on Reorganization recommended a new department similar to that suggested by President Harding. In 1932, one of President Hoover's reorganization proposals called for the concentration of health, education, and recreational activities in a single executive department. The President's Committee on Administrative Management in 1937 recommended the placing of health, education, and social-security functions in a Department of Social Welfare. This recommendation was partially implemented in 1939 by the creation of the Federal Security Agency—by which action the Congress indicated its approval of the grouping of these functions in a single agency. A new department could not be proposed at that time because the Reorganization Act of 1939 prohibited the creation of additional executive departments. In 1949, the Commission on Organization of the Executive Branch of the Government proposed the creation of a department for social security and education.

The present plan will make it possible to give the officials directing the Department titles indicative of their responsibilities and salaries comparable to those received by their counterparts in other executive departments. As the Under Secretary of an executive department, the Secretary's principal assistant will be better equipped to give leadership in the Department's organization and management activities, for which he will be primarily responsible. The plan opens the way to further administrative improvement by authorizing the Secretary to centralize services and activities common to the several agencies of the Department. It also established a uniform method of appointment for the heads of the three major constituent agencies. At present, the Surgeon General and the Commissioner of Education are appointed by the President and confirmed by the Senate, while the Commissioner for Social Security is appointed by the Federal Security Administrator. Hereafter, all three will be Presidential appointees subject to Senate confirmation.

I believe, and this plan reflects my conviction, that these several fields of Federal activity should continue within the framework of a single department. The plan at the same time assures that the Office of Education and the Public Health Service retain the professional and substantive responsibilities vested by law in those agencies or in their heads. The Surgeon General, the Commissioner of Education, and the Commissioner of Social Security will all have direct access to the Secretary.

There should be in the Department an Advisory Committee on Education, made up of persons chosen by the Secretary from outside the Federal Government, which would advise the Secretary with respect to the educational programs of the Department. I recommend the enactment of legislation authorizing the defrayal of the expenses of this Committee. The creation of such a Committee as an advisory body to the Secretary will help insure the maintenance of responsibility for the public educational system in State and local governments while preserving the national interest in education through appropriate Federal action.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1953 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended. I have also found and hereby declare that by reason of these reorganizations, it is necessary to include in the reorganization plan provisions for the appointment and compensation of the new officers specified in sections 1, 2, 3, and 4 of the reorganization plan. The rates of compensation fixed for these officers are, respectively, those which I have found to prevail in respect of comparable officers in the executive branch of the Government.

Although the effecting of the reorganizations provided for in the reorganization plan will not in itself result in immediate savings, the improvement achieved in administration will in the future allow the performance of necessary services at greater savings than

present operations would permit. An itemization of these savings in advance of actual experience is not practicable.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, March 12, 1953.

EX. ORD. NO. 11583. OFFICE OF CONSUMER AFFAIRS

Ex. Ord. No. 11583, Feb. 24, 1971, 36 F.R. 3509, as amended by Ex. Ord. No. 11595, May 26, 1971, 36 F.R. 9763; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

Consumer protection fosters a market place in which our competitive economic system flourishes best. It is good for businessmen because it gives the consumer greater confidence in the goods and services provided by business. It is good for consumers because it reinforces the concept of buyers' rights:

—the right to make an intelligent choice among products and services;

—the right to accurate information on which to make a free choice;

—the right to expect that the health and safety of the buyer is taken into account by those who seek his patronage;

—the right to register dissatisfaction, and have a complaint heard and weighed, when a buyer's interests are badly served.

The Special Assistant to the President for Consumer Affairs is performing an important role in representing consumer interests in the Federal Government. It is important that the role of the office of the Special Assistant be reinforced by increasing its responsibilities and reemphasizing its importance.

There is need for a consumer office within the Executive Office of the President, which not only advises and represents the President on matters of consumer interest, but also analyzes and coordinates the implementation of all Federal activities in the field of consumer protection, helping to establish priorities and resolve conflicts, and recommending ways in which governmental consumer programs can be made more effective.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Office of Consumer Affairs.* The Office of Consumer Affairs (hereinafter referred to as the "Office") is hereby established in the Executive Office of the President. The Office shall be headed by a Director, who shall be appointed by the President, and there shall be in the Office two Deputy Directors who shall also be appointed by the President. The Deputy Directors shall perform such duties as the Director may designate, and in case of a vacancy in the office of Director or during the absence or incapacity of the Director, the Deputy Directors, in the order designated by the President, shall act as Director. The Director and Deputy Directors shall receive compensation at such rates as the President, consonant with law, may hereafter determine.

SEC. 2. *Powers and duties of the Director.* (a) The Director shall be responsible for the exercise of the powers and the discharge of the duties of the Office, and shall have the authority to direct and supervise all personnel and activities thereof. The Director shall take all actions as may be necessary to organize the Office so as to carry out the functions and to achieve the purposes set forth in this order.

(b) In addition to any other authority conferred upon him by this order, the Director is authorized, in carrying out his functions hereunder, to—

(1) appoint one or more advisory committees composed of such private citizens and officials of the Federal, State, and local governments as he deems desirable to advise him with respect to his functions. Members of such committees (including the Consumer Advisory Council established in section 5 of this order) other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Director,

shall be entitled to receive compensation and travel expenses as authorized by law for persons serving intermittently;

(2) promulgate such rules, regulations, and procedures as may be necessary to carry out the functions vested in him or in the Office, and delegate authority for the performance of any function to any officer or employee under his direction and supervision;

(3) utilize, with their consent, the services, personnel, and facilities of other Federal, State, local and private agencies and instrumentalities with or without reimbursement thereof except as reimbursement may be required by law; and

(c) The Director shall report periodically to the President on significant developments affecting the interests of consumers together with such recommendations including legislative recommendations as he deems appropriate.

SEC. 3. *Functions.* (a) The Office shall advise the President as to all matters affecting the interest of consumers.

(b) The Office shall—

(1) with respect to consumer interests in Federal policies and programs, encourage and assist in development and implementation of consumer programs; coordinate and review policies and programs; seek resolution of conflicts; advise and make recommendations to Federal agencies with respect to policy matters, the effectiveness of their programs and operations, and the elimination of duplications;

(2) assure that the interests of consumers are presented and considered in a timely manner by the appropriate levels of the Federal Government in the formulation of policies and in the operation of programs that affect the consumer interest;

(3) conduct investigations, conferences, and surveys concerning the needs, interests and problems of consumers, except that it shall, where feasible, avoid duplicating activities conducted by other Federal agencies;

(4) submit recommendations to the President on how Federal programs and activities affecting consumers can be improved;

(5) take action with respect to consumer complaints to the extent authorized by section 4 of this order;

(6) perform the functions assigned to the President's Committee on Consumer Interests in Executive Order No. 11566 of October 26, 1970;

(7) encourage and coordinate the development of information of interest to consumers by Federal agencies and the publication and distribution of materials which will inform consumers of matters of interest to them in language which is readily understandable by the layman;

(8) encourage and coordinate research conducted by Federal agencies leading to improved consumer products, services, and consumer information;

(9) encourage, initiate, coordinate, evaluate, and participate in consumer education programs and consumer counseling programs;

(10) encourage, cooperate with, and assist State and local governments in the promotion and protection of consumer interests; and

(11) cooperate with and encourage private enterprise in the promotion and protection of consumer interest.

SEC. 4. *Consumer complaints.* (a) Whenever the Office receives from any source complaints or other information disclosing a possible violation of (1) any law of the United States or (2) any rule or order of any Federal agency concerning consumer interests, the Office shall promptly transmit such complaint or other information to the Federal agency charged with the duty of enforcing such law, rule, or order, for appropriate action.

(b) Whenever the Office receives complaints or other information disclosing any commercial or trade practice which it deems detrimental to the general interests of consumers within the United States, and which is not included within the category specified in subsection (a) of this section, the Office may transmit such complaint or other information promptly to the Fed-

eral, State, or local agency whose regulatory or other authority provides the most effective means to act upon them; the Office may in its discretion also refer such complaint or other information to the private persons or industry against whom the complaint is made.

SEC. 5. *Consumer Advisory Council.* (a) There is hereby established in the Office a Consumer Advisory Council to be composed of not more than 12 members appointed by the President. Members shall be appointed on the basis of their knowledge and experience in areas of interest to consumers and their demonstrated ability to exercise independent, informed, and critical judgment.

(b)(1) Members shall be appointed for two-year terms. Members of the Consumer Advisory Council, established pursuant to Executive Order No. 11136 of January 3, 1964, as amended, shall continue in office in accordance with the terms of their original appointments.

(2) Any member chosen to fill a vacancy shall be appointed for the unexpired term of the member he succeeds.

(3) A vacancy in the Council shall not affect its authority to act, and a majority of the members thereof shall constitute a quorum.

(c) The President shall designate the Chairman from among the members composing the Council. The Council shall meet at the call of the Director. The Director shall be an ex-officio member of the Council and its Executive Secretary.

(d) The Council shall advise the Director with respect to—

(1) policy matters relating to consumer interests; and

(2) the effectiveness of Federal programs and operations, which affect the interests of consumers; and

(3) problems of primary importance to consumers, and ways in which unmet consumer needs can appropriately be met through Federal Government action.

SEC. 6. *Consideration of the consumer interest in Federal agency determinations.* Every Federal agency in taking any action of a nature which can reasonably be construed as substantially affecting the interests of consumers of products and services, including, but not limited to, (1) the promulgation of rules, regulations, or guidelines, (2) the formulation of written policy decisions, or (3) the issuance of orders, decrees, or standards, shall, in taking such action, give due consideration to the valid interests of consumers.

SEC. 7. *Abolition of Committee and Council.* Except as otherwise provided herein, the President's Committee on Consumer Interests and the Consumer Advisory Council established under Executive Order No. 11136 of January 3, 1964, as amended by Executive Order No. 11349 of May 1, 1967, are abolished.

SEC. 8. *Construction.* Nothing in this order shall be construed as subjecting any function vested by law in, or assigned pursuant to law to, any Federal agency or the head thereof to the authority of any other agency or officer or as abrogating or restricting any such function in any manner.

SEC. 9. *Orders superseded.* Executive Order No. 11136 of January 3, 1964, and Executive Order No. 11349 of May 1, 1967, are hereby superseded.

EX. ORD. NO. 11702. TRANSFER OF OFFICE OF CONSUMER AFFAIRS

Ex. Ord. No. 11702, Jan. 25, 1973, 38 F.R. 2957, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

Under and by virtue of the authority vested in me by section 301 of title 3 of the United States Code [section 301 of title 3, The President] and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The Office of Consumer Affairs, established by Executive Order No. 11583 of February 24, 1971, as amended by Executive Order No. 11595 of May 26, 1971 [set out above], together with its functions, is hereby transferred from the Executive Office of the President to the Department of Health and Human Services. The Director of the Office of Consumer Affairs shall con-

tinue as the Special Assistant to the President for Consumer Affairs.

SEC. 2. In view of the establishment of the Council on Economic Policy, the Cabinet Committee on Economic Policy, together with its functions, is hereby abolished and Executive Order No. 11453 of January 24, 1969, is hereby revoked.

EX. ORD. NO. 12160. ENHANCEMENT AND COORDINATION OF FEDERAL CONSUMER PROGRAMS

Ex. Ord. No. 12160, Sept. 26, 1979, 44 F.R. 55787, as amended by Ex. Ord. No. 12265, Jan. 15, 1981, 46 F.R. 4665; Ex. Ord. No. 13286, §51, Feb. 28, 2003, 68 F.R. 10628, provided:

By virtue of the authority vested in me as President by the Constitution of the United States of America, and in order to improve the management, coordination, and effectiveness of agency consumer programs, it is ordered as follows:

1-1. ESTABLISHMENT OF THE CONSUMER AFFAIRS COUNCIL

1-101. There is hereby established the Consumer Affairs Council (hereinafter referred to as the "Council").

1-102. The Council shall consist of representatives of the following agencies and such other officers or employees of the United States as the President may designate as members:

- (a) Department of Agriculture.
- (b) Department of Commerce.
- (c) Department of Defense.
- (d) Department of Energy.
- (e) Department of Health and Human Services.
- (f) Department of Housing and Urban Development.
- (g) Department of the Interior.
- (h) Department of Justice.
- (i) Department of Labor.
- (j) Department of State.
- (k) Department of Transportation.
- (l) Department of the Treasury.
- (m) Department of Homeland Security.
- (n) ACTION Agency [now Corporation for National and Community Service].
- (o) Administrative Conference of the United States.
- (p) Community Services Administration.
- (q) Department of Education.
- (r) Environmental Protection Agency.
- (s) Equal Employment Opportunity Commission.
- (t) General Services Administration.
- (u) Small Business Administration.
- (v) Tennessee Valley Authority.
- (w) Veterans Administration [now Department of Veterans Affairs].
- (x) Commission on Civil Rights is invited to participate.

Each agency on the Council shall be represented by the head of the agency or by a senior-level official designated by the head of the agency.

1-2. FUNCTIONS OF THE COUNCIL

1-201. The Council shall provide leadership and coordination to ensure that agency consumer programs are implemented effectively; and shall strive to maximize effort, promote efficiency and interagency cooperation, and to eliminate duplication and inconsistency among agency consumer programs.

1-3. DESIGNATION AND FUNCTIONS OF THE CHAIRPERSON

1-301. The President shall designate the chairperson of the Council (hereinafter referred to as the "Chairperson").

1-302. The Chairperson shall be the presiding officer of the Council and shall determine the times when the Council shall convene.

1-303. The Chairperson shall establish such policies, definitions, procedures, and standards to govern the implementation, interpretation, and application of this Order, and generally perform such functions and take such steps, as are necessary or appropriate to carry out the provisions of this Order.

1-4. CONSUMER PROGRAM REFORMS

1-401. The Chairperson, assisted by the Council, shall ensure that agencies review and revise their operating procedures so that consumer needs and interests are adequately considered and addressed. Agency consumer programs should be tailored to fit particular agency characteristics, but those programs shall include, at a minimum, the following five elements:

(a) *Consumer Affairs Perspective.* Agencies shall have identifiable, accessible professional staffs of consumer affairs personnel authorized to participate, in a manner not inconsistent with applicable statutes, in the development and review of all agency rules, policies, programs, and legislation.

(b) *Consumer Participation.* Agencies shall establish procedures for the early and meaningful participation by consumers in the development and review of all agency rules, policies, and programs. Such procedures shall include provisions to assure that consumer concerns are adequately analyzed and considered in decisionmaking. To facilitate the expression of those concerns, agencies shall provide for forums at which consumers can meet with agency decisionmakers. In addition, agencies shall make affirmative efforts to inform consumers of pending proceedings and of the opportunities available for participation therein.

(c) *Informational Materials.* Agencies shall produce and distribute materials to inform consumers about the agencies' responsibilities and services, about their procedures for consumer participation, and about aspects of the marketplace for which they have responsibility. In addition, each agency shall make available to consumers who attend agency meetings open to the public materials designed to make those meetings comprehensible to them.

(d) *Education and Training.* Agencies shall educate their staff members about the Federal consumer policy embodied in this Order and about the agencies' programs for carrying out that policy. Specialized training shall be provided to agency consumer affairs personnel and, to the extent considered appropriate by each agency and in a manner not inconsistent with applicable statutes, technical assistance shall be made available to consumers and their organizations.

(e) *Complaint Handling.* Agencies shall establish procedures for systematically logging in, investigating, and responding to consumer complaints, and for integrating analyses of complaints into the development of policy.

1-402. The head of each agency shall designate a senior-level official within that agency to exercise, as the official's sole responsibility, policy direction for, and coordination and oversight of, the agency's consumer activities. The designated official shall report directly to the head of the agency and shall apprise the agency head of the potential impact on consumers of particular policy initiatives under development or review within the agency.

1-5. IMPLEMENTATION OF CONSUMER PROGRAM REFORMS

1-501. Within 60 days after the issuance of this Order, each agency shall prepare a draft report setting forth with specificity its program for complying with the requirements of Section 1-4 above. Each agency shall publish its draft consumer program in the Federal Register and shall give the public 60 days to comment on the program. A copy of the program shall be sent to the Council.

1-502. Each agency shall, within 30 days after the close of the public comment period on its draft consumer program, submit a revised program to the Chairperson. The Chairperson shall be responsible, on behalf of the President, for approving agency programs for compliance with this Order before their final publication in the Federal Register. Each agency's final program shall be published no later than 90 days after the close of the public comment period, and shall include a summary of public comments on the draft program and a discussion of how those comments are reflected in the final program.

1-503. Each agency's consumer program shall take effect no later than 30 days after its final publication in the Federal Register.

1-504. The Chairperson, with the assistance and advice of the Council, shall monitor the implementation by agencies of their consumer programs.

1-505. The Chairperson shall, promptly after the close of the fiscal year, submit to the President a full report on government-wide progress under this Order during the previous fiscal year. In addition, the Chairperson shall evaluate, from time to time, the consumer programs of particular agencies and shall report to the President as appropriate. Such evaluations shall be informed by appropriate consultations with interested parties.

#### 1-6. BUDGET REVIEW

1-601. Each agency shall include a separate consumer program exhibit in its yearly budget submission to the Office of Management and Budget. By October 1 of each year the Director of the Office of Management and Budget shall provide the Chairperson with a copy of each of these exhibits. The Chairperson shall thereafter provide OMB with an analysis of the adequacy of the management of, and the funding and staff levels for, particular agency consumer programs.

#### 1-7. CIVIL SERVICE INITIATIVES

1-701. In order to strengthen the professional standing of consumer affairs personnel, and to improve the recruitment and training of such personnel, the Office of Personnel Management shall consult with the Council regarding:

(a) the need for new or revised classification and qualification standard(s), consistent with the requirements of Title 5, United States Code, to be used by agencies in their classification of positions which include significant consumer affairs duties;

(b) the recruitment and selection of employees for the performance of consumer affairs duties; and

(c) the training and development of employees for the performance of such duties.

#### 1-8. ADMINISTRATIVE PROVISIONS

1-801. Executive agencies shall cooperate with and assist the Council and the Chairperson in the performance of their functions under this Order and shall on a timely basis furnish them with such reports as they may request.

1-802. The Chairperson shall utilize the assistance of the United States Office of Consumer Affairs in fulfilling the responsibilities assigned to the Chairperson under this Order.

1-803. The Chairperson shall be responsible for providing the Council with such administrative services and support as may be necessary or appropriate; agencies shall assign, to the extent not inconsistent with applicable statutes, such personnel and resources to the activities of the Council and the Chairperson as will enable the Council and the Chairperson to fulfill their responsibilities under this Order.

1-804. The Chairperson may invite representatives of non-member agencies, including independent regulatory agencies, to participate from time to time in the functions of the Council.

#### 1-9. DEFINITIONS

1-901. "Consumer" means any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family, or household purposes.

1-902. "Agency" or "agencies" means any department or agency in the executive branch of the Federal government, except that the term shall not include:

(a) independent regulatory agencies, except as noted in subsection 1-804;

(b) agencies to the extent that their activities fall within the categories excepted in Sections 6(b)(2), (3),

(4), and (6) of Executive Order No. 12044 [5 U.S.C. 553 note].

(c) agencies to the extent that they demonstrate within 30 days of the date of issuance of this Order, to the satisfaction of the Chairperson with the advice of the Council, that their activities have no substantial impact upon consumers.

#### EXECUTIVE ORDER NO. 13125

Ex. Ord. No. 13125, June 7, 1999, 64 F.R. 31105, as amended by Ex. Ord. No. 13216, June 6, 2001, 66 F.R. 31373, which established in the Department of Health and Human Services a President's Advisory Commission on Asian Americans and Pacific Islanders, was superseded by Ex. Ord. No. 13515, §4(a), Oct. 14, 2009, 74 F.R. 53638, set out as a note under section 1501 of Title 15, Commerce and Trade.

#### § 3501a. Additional Assistant Secretaries

There shall be in the Department of Health and Human Services, in addition to the Assistant Secretaries now provided for by law, three additional Assistant Secretaries of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate. The provisions of section 2 of the Reorganization Plan Numbered 1 of 1953 (67 Stat. 631) shall be applicable to such additional Assistant Secretaries to the same extent as they are applicable to the Assistant Secretaries authorized by that section.

(Pub. L. 89-115, §4(a), Aug. 9, 1965, 79 Stat. 449; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

#### REFERENCES IN TEXT

Reorganization Plan Numbered 1 of 1953, referred to in text, is set out as a note under section 202 of this title.

#### CODIFICATION

Section was formerly classified to section 623h of former Title 5, Executive Departments and Government Officers and Employees, prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, §1, Sept. 1, 1966, 80 Stat. 378.

#### CHANGE OF NAME

"Department of Health and Human Services" and "Assistant Secretaries of Health and Human Services" substituted in text for "Department of Health, Education, and Welfare" and "Assistant Secretaries of Health, Education, and Welfare", respectively, pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

#### ASSISTANT SECRETARY FOR PUBLIC AFFAIRS

Pub. L. 112-166, §2(e)(1), Aug. 10, 2012, 126 Stat. 1284, provided that: "Notwithstanding any other provision of law, the appointment of an individual to serve as the Assistant Secretary for Public Affairs within the Department of Health and Human Services shall not be subject to the advice and consent of the Senate."

#### § 3502. Assistant Secretary for Administration; appointment and duties

There shall be in the Department of Health and Human Services an Assistant Secretary of Health and Human Services for Administration who shall be appointed, with the approval of the President, by the Secretary of Health and Human Services under the classified civil service, who shall perform such duties as the Secretary shall prescribe.