

SEPARABILITY

Pub. L. 94-521, §16, Oct. 17, 1976, 90 Stat. 2466, provided that: "If a provision enacted by this Act [see section 17 of Pub. L. 94-521 set out above] is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act [Pub. L. 94-521] is held invalid in one or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid application or applications."

§ 2. Bureau of the Census

The Bureau is continued as an agency within, and under the jurisdiction of, the Department of Commerce.

(Aug. 31, 1954, ch. 1158, 68 Stat. 1012.)

HISTORICAL AND REVISION NOTES

Based on title 13, U.S.C., 1952 ed., §1 (Mar. 6, 1902, ch. 139, §1, 32 Stat. 51; Feb. 14, 1903, ch. 552, §4, 32 Stat. 826; Mar. 4, 1913, ch. 141, §1, 37 Stat. 736; June 18, 1929, ch. 28, §21, 46 Stat. 26).

Section 1 of title 13, U.S.C., 1952 ed., provided that the "Census Office" temporarily established in the Department of the Interior in accordance with the act of Mar. 3, 1899 (ch. 419, 30 Stat. 1014) "is made" a permanent office in the Department of Commerce. Such wording is no longer necessary, and the provisions, as revised in this section, merely continue the Bureau (of the Census) as an agency within, and under the jurisdiction of, the Department of Commerce.

§ 3. Seal

The Bureau shall have a seal containing such device as has been selected heretofore, or as the Secretary may select hereafter. A description of such seal with an impression thereof shall be filed in the office of the Secretary of State. The seal shall remain in the custody of the Secretary or such officer or employee of the Bureau as he designates, and shall be affixed to all documents authenticated by the Bureau. Judicial notice shall be taken of the seal.

(Aug. 31, 1954, ch. 1158, 68 Stat. 1012; Pub. L. 85-207, §2, Aug. 28, 1957, 71 Stat. 481; Pub. L. 94-521, §2, Oct. 17, 1976, 90 Stat. 2459.)

HISTORICAL AND REVISION NOTES

Based on acts Mar. 3, 1899, ch. 419, §31, 30 Stat. 1021; Mar. 6, 1902, ch. 139, §6, 32 Stat. 52.

Section is new to the United States Code, but is in accordance with current practice. Act Mar. 3, 1899, ch. 419, 30 Stat. 1014, which established the "Census Office" on a temporary basis, provided in section 31 thereof (30 Stat. 1021) for a seal for that office. The office was made permanent by act Mar. 6, 1902, ch. 139, 32 Stat. 51, and section 6 of that act (32 Stat. 52) continued in full force and effect "for the taking of the Thirteenth and subsequent censuses" all provisions of the act of Mar. 3, 1899, not inconsistent with the provisions of such 1902 act. Therefore, since the 1902 act contained no provisions with respect to a seal, section 31 of the 1899 act, providing for the seal, remained in force as it was not inconsistent. Section 33 of act July 2, 1909, ch. 2, 36 Stat. 10, which act (36 Stat. 1) related to the Thirteenth and subsequent decennial censuses, repealed the said act of Mar. 3, 1899, specifically, and all "other" laws and parts of laws inconsistent with the provisions of the 1909 act. These repealing provisions are somewhat ambiguous, but it was probably the intent of Congress, as it was the intent thereof at the time of enactment of the act of Mar. 6, 1902, referred to above, to continue in effect all provisions of the act of Mar. 3, 1899, that were not inconsistent with the act of July 2, 1909. The

1909 act contained no provisions with respect to the seal, and it accordingly follows that the provisions of section 31 of the act of Mar. 3, 1899, with respect thereto, continued in force. This is also the interpretation of the Bureau of the Census, which has continued to use a seal through the years in connection with "certificates and attestations".

In any event, this new section merely confirms past and present practice, and restores, if it does not preserve, statutory authority for possession and use of the seal which is a very necessary part of the operations of the Bureau. Further, the section should serve to forestall future differences of interpretation. In the past, some States have refused to recognize the seal of the Census Bureau on the ground that it was not authorized by law. In all probability, this position was taken, not as the result of a search of the Statutes at Large, which would have been a difficult project, but because provisions relating to the seal were not set out in the United States Code where they would have been readily accessible.

The language of this section follows substantially the language of section 31 of the act of Mar. 3, 1899, referred to above, but has been reworded because of jurisdictional and other changes since that time. The "Census Office" was transferred from the Department of the Interior to the Department of Commerce and Labor by act Feb. 14, 1903, ch. 552, §4, 32 Stat. 826. Act Mar. 4, 1913, ch. 141, §1, 37 Stat. 736, changed the name of the latter to the Department of Commerce, and created, as a separate department, the Department of Labor. It transferred a number of bureaus and agencies from the Department of Commerce to the Department of Labor, but these transfers did not affect the Bureau of the Census, which has remained under the jurisdiction of the Department of Commerce. 1950 Reorganization Plan No. 5, §1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, transferred all functions of all officers, employees, bureaus, and agencies of the Department of Commerce to the Secretary of Commerce, and vested power in him to delegate them or any of his other functions to any of such officers, employees, bureaus, and agencies. Therefore, in this section, "Secretary", and "Secretary or such officer or employee of the Bureau as he designates", were substituted, respectively, for two references to the Director of the Census, to conform with such Plan.

Editorial Notes

AMENDMENTS

1976—Pub. L. 94-521 substituted "affixed to all documents authenticated by the Bureau" for "affixed to all certificates and attestations that may be required from the Bureau".

1957—Pub. L. 85-207 provided for judicial recognition of the seal.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-521 effective Oct. 17, 1976, see section 17 of Pub. L. 94-521, set out as a note under section 1 of this title.

§ 4. Functions of Secretary; regulations; delegation

The Secretary shall perform the functions and duties imposed upon him by this title, may issue such rules and regulations as he deems necessary to carry out such functions and duties, and may delegate the performance of such functions and duties and the authority to issue such rules and regulations to such officers and employees of the Department of Commerce as he may designate.

(Aug. 31, 1954, ch. 1158, 68 Stat. 1013; Pub. L. 94-521, §3(a), Oct. 17, 1976, 90 Stat. 2459.)

HISTORICAL AND REVISION NOTES

Section is new, and was inserted to conform with 1950 Reorganization Plan No. 5, effective May 24, 1950, §§ 1, 2, 15 F.R. 3174, 64 Stat. 1263, which is set out as a note under section 591 of title 5, U. S. C., 1952 ed., Executive Departments and Government Officers and Employees [now set out in the Appendix to Title 5, Government Organization and Employees]. That plan transferred all functions (with a few exceptions not applicable to the Census Bureau) of all agencies, officers and employees of the Department of Commerce to the Secretary of Commerce, and vested power in him to delegate the functions so transferred, or any of his other functions, to such agencies, officers or employees within the Department as he designates.

See, also, section 253 of title 13, U.S.C., 1952 ed., which provided for delegation of functions in connection with the quinquennial censuses of governments, and authorized the Secretary to promulgate rules and regulations with respect to such censuses. That section has been omitted from this revised title, as the provision thereof for delegation of functions is covered by this section, and the provision thereof which related to rules and regulations is covered by section 22 of title 1, U.S.C., 1952 ed., General Provisions.

Because of the transfer effected by 1950 Reorganization Plan No. 5, referred to above, sections of title 13, U.S.C., 1952 ed., which prescribed functions of the Bureau of the Census, the Census Office, or the Director of the Census, have, in this revised title, been changed to refer to the Secretary.

Editorial Notes

AMENDMENTS

1976—Pub. L. 94-521 inserted “regulations;” in section catchline, authorized the Secretary to issue such rules and regulations as he deems necessary to carry out the functions and duties imposed upon him by this title, authorized delegation of authority to issue such rules and regulations to officers and employees of the Department of Commerce, and struck out a provision which allowed delegation of performance of such functions and duties to bureaus and agencies of the Department of Commerce.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-521 effective Oct. 17, 1976, see section 17 of Pub. L. 94-521, set out as a note under section 1 of this title.

§ 5. Questionnaires; number, form, and scope of inquiries

The Secretary shall prepare questionnaires, and shall determine the inquiries, and the number, form, and subdivisions thereof, for the statistics, surveys, and censuses provided for in this title.

(Aug. 31, 1954, ch. 1158, 68 Stat. 1013; Pub. L. 94-521, § 4(a), Oct. 17, 1976, 90 Stat. 2459.)

HISTORICAL AND REVISION NOTES

Based on title 13, U.S.C., 1952 ed., §§ 82, 111, 123, 204, 216, 251, and section 1442 of title 42, U.S.C., 1952 ed., The Public Health and Welfare (Mar. 6, 1902, ch. 139, § 7, 32 Stat. 52; June 7, 1906, ch. 3048, 34 Stat. 218; Aug. 7, 1916, ch. 274, § 2, 39 Stat. 437; June 18, 1929, ch. 28, §§ 3, 4, 16, 46 Stat. 21, 22, 25; 1939 Reorganization Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1431; 1940 Reorganization Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1232; June 25, 1947, ch. 124, 61 Stat. 163; June 19, 1948, ch. 502, § 3, 62 Stat. 479; July 15, 1949, ch. 338, title VI, § 607, 63 Stat. 441; Sept. 7, 1950, ch. 910, §§ 1, 4, 64 Stat. 784, 785; July 16, 1952, ch. 912, 66 Stat. 736).

Section consolidates section 82 of title 13, U.S.C., 1952 ed., which related to statistics on cottonseed, oilseeds, nuts and kernels, fats, oils, and greases, with part of the second sentence of section 111 of such title, which section related to miscellaneous statistics; with the first sentence of section 123 of such title, which section related to censuses of manufacturers, mineral industries, and other businesses; with the second sentence of section 204 of such title, which section related to censuses of population, agriculture, irrigation, drainage, etc.; with the third sentence of section 216 of such title, which section related to censuses of agriculture; with that part of subsection (b) of section 1442 of title 42, U.S.C., 1952 ed., which made such sections 204 and 216 applicable to the censuses of housing; and with part of section 251(b) of such title relating to censuses of governments.

Sections 82, 123 and 204 of title 13, U.S.C., 1952 ed., provided that the inquiries, etc., should be determined by the Director of the Census, with the approval of the Secretary of Commerce. Section 111 thereof provided that the Director of the Census should prepare the schedules, etc., and sections 216 and 251(b) thereof (the former amended in 1952, the latter enacted in 1950) provided that the inquiries, etc., should be determined by the Secretary of Commerce. This consolidated section vests such duties in the Secretary of Commerce, which is in conformity not only with such sections 216 and 251(b), but also with 1950 Reorganization Plan No. 5, §§ 1, 2, effective May 24, 1950, 15 F.R. 3174, 64 Stat. 1263. See Revision Note to section 4 of this title.

Changes were made in phraseology.

For remainder of sections 111, 123, 204, 216, and 251 of title 13, U.S.C., 1952 ed., and of section 1442 of title 42, U.S.C., 1952 ed. (which has been transferred in its entirety to this revised title), see Distribution Table.

Editorial Notes

AMENDMENTS

1976—Pub. L. 94-521 substituted “Questionnaires” for “Schedules” in section catchline and in text.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-521 effective Oct. 17, 1976, see section 17 of Pub. L. 94-521, set out as a note under section 1 of this title.

RESTRICTION ON COLLECTION OF CENSUS DATA ON RACE

Pub. L. 111-117, div. B, title I, Dec. 16, 2009, 123 Stat. 3115, provided in part: “That none of the funds provided in this or any other Act for any fiscal year may be used for the collection of census data on race identification that does not include ‘some other race’ as a category”.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 111-8, div. B, title I, Mar. 11, 2009, 123 Stat. 562.

Pub. L. 110-161, div. B, title I, Dec. 26, 2007, 121 Stat. 1887.

Pub. L. 109-108, title II, Nov. 22, 2005, 119 Stat. 2308.

Pub. L. 108-447, div. B, title II, Dec. 8, 2004, 118 Stat. 2876.

§ 6. Information from other Federal departments and agencies; acquisition of reports from other governmental and private sources

(a) The Secretary, whenever he considers it advisable, may call upon any other department, agency, or establishment of the Federal Government, or of the government of the District of Columbia, for information pertinent to the work provided for in this title.

(b) The Secretary may acquire, by purchase or otherwise, from States, counties, cities, or other