

§ 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.

(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.)

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. R.S. § 159.
.....	5 U.S.C. 2.	

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

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 Depart-

ment 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.

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

Section 10(c) of Pub. L. 89-670, 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 4 section 7; title 18 sections 115, 351, 1030, 6001; title 28 section 451; title 31 sections 1343, 1344; title 41 sections 403, 601; title 42 sections 8262c, 10156, 10222.

§ 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 4 section 7; title 15 sections 638, 3703; title 18 section 6001; title 26 section 6050M; title 29 sections 203, 633a; title 31 section 1344; title 35 section 201; title 38 section 4303; title 41 sections 48b, 403, 601; title 42 sections 2000e-16, 10156, 10222.

§ 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 1155; title 26 section 6402; title 31 sections 1344, 3332; title 42 section 12651.

§ 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 Rate Commission) which is not an Executive department, military department, Government corporation, or part thereof, or part of an independent establishment; and
- (2) the General Accounting Office.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 379; Pub. L. 91-375, § 6(c)(2), Aug. 12, 1970, 84 Stat. 775.)

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

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 sections 6203, 6563; title 41 sections 403, 601.

§ 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 306, 5372b, 5948 of this title; title 7 section 2132; title 10 section 2014; title 12 section 1749bbb-10b; title 15 sections 638, 3301, 3703, 4901, 5802, 6617; title 16 section 2602; title 22 sections 2685, 3641, 6502, 6765; title 29 sections 203, 633a; title 31 section 1353; title 35 section 201; title 38 sections 4211, 4303; title 39 section 416; title 40 section 913; title 41 sec-

tion 48b; title 42 sections 2000e-16, 4071, 4902, 6361, 6964, 7911, 8241, 8802, 10101; title 43 section 2003; title 50 section 1601.

CHAPTER 3—POWERS

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

AMENDMENTS

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, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which provided:

“All laws, orders, regulations, and other actions relating to the National Military Establishment, the Departments of the Army, the Navy, or the Air Force, or to any officer or activity of such establishment or such departments, shall, except to the extent inconsistent with the provisions of this Act, have the same effect as if this Act had not been enacted; but, after the effective date of this Act, any such law, order, regulation, or other action which vested functions in or otherwise related to any officer, department, or establishment, shall be deemed to have vested such function in or relate to the officer, or department, executive or military, succeeding the officer, department, or establishment in which such function was vested. For purposes of this subsection the Department of Defense shall be deemed the department succeeding the National Military Establishment, and the military departments of