

## § 102. Department of Transportation

(a) The Department of Transportation is an executive department of the United States Government at the seat of Government.

(b) The head of the Department is the Secretary of Transportation. The Secretary is appointed by the President, by and with the advice and consent of the Senate.

(c) The Department has a Deputy Secretary of Transportation appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary—

(1) shall carry out duties and powers prescribed by the Secretary; and

(2) acts for the Secretary when the Secretary is absent or unable to serve or when the office of Secretary is vacant.

(d) The Department has an Under Secretary of Transportation for Policy appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall provide leadership in the development of policy for the Department, supervise the policy activities of Assistant Secretaries with primary responsibility for aviation, international, and other transportation policy development and carry out other powers and duties prescribed by the Secretary. The Under Secretary acts for the Secretary when the Secretary and the Deputy Secretary are absent or unable to serve, or when the offices of Secretary and Deputy Secretary are vacant.

(e) The Department has 4 Assistant Secretaries and a General Counsel appointed by the President, by and with the advice and consent of the Senate. The Department also has an Assistant Secretary of Transportation for Administration appointed in the competitive service by the Secretary, with the approval of the President. They shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary or the General Counsel, in the order prescribed by the Secretary, acts for the Secretary when the Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy are absent or unable to serve, or when the offices of the Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy are vacant.

(f) The Department shall have a seal that shall be judicially recognized.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2414; Pub. L. 98-557, §26(a), Oct. 30, 1984, 98 Stat. 2873; Pub. L. 103-272, §4(j)(1), July 5, 1994, 108 Stat. 1365; Pub. L. 107-295, title II, §215(a), (c), Nov. 25, 2002, 116 Stat. 2101, 2102.)

### HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)                                | Source (Statutes at Large)                                                                                |
|-----------------|---------------------------------------------------|-----------------------------------------------------------------------------------------------------------|
| 102(a) .....    | 49:1652(a) (1st sentence).                        | Oct. 15, 1966, Pub. L. 89-670, §3(a), (c), (d), 80 Stat. 931.                                             |
| 102(b) .....    | 49:1652(a) (less 1st sentence).                   |                                                                                                           |
| 102(c) .....    | 49:1652(a) (less words between parentheses).      | Oct. 15, 1966, Pub. L. 89-670, §3(b), 80 Stat. 931; Oct. 28, 1974, Pub. L. 93-496, §16(a), 88 Stat. 1533. |
| 102(d) .....    | 49:1652(b) (words between parentheses), (c), (d). |                                                                                                           |
| 102(e) .....    | 49:1657(k).                                       | Oct. 15, 1966, Pub. L. 89-670, §9(k), 80 Stat. 946.                                                       |

In subsection (a), the words “There is hereby established” and “to be known as” are omitted as executed. The words “(hereafter referred to in this chapter as the ‘Department’)” are omitted as unnecessary because of the style used in codifying the revised title. The words “of the United States Government” are added for clarity.

In subsection (b), the words “(hereafter referred to in this chapter as the ‘Secretary’)” are omitted as unnecessary because of the style used in codifying the revised title.

In subsection (c), the words “carry out duties and powers” and “acts for” are substituted for “act for and exercise the powers of” and “perform such functions, powers, and duties”, respectively, for consistency and to eliminate surplus words. The words “unable to serve” are substituted for “disability” for consistency and clarity.

In subsection (d), the words “in the competitive service” are substituted for “under the classified civil service” to conform to 5:2102. The words “from time to time” are omitted as surplus. The words “acts for” are substituted for “act for, and exercise the powers of” for consistency and to eliminate surplus words. The words “when the Secretary and the Deputy Secretary are absent or unable to serve, or when the offices of Secretary and Deputy Secretary are vacant” are substituted for “during the absence or disability of the Deputy Secretary, or in the event of a vacancy in the office of a Deputy Secretary” as being more precise and for consistency.

In subsection (e), the words “The Secretary shall cause a . . . of office” and “of such device” are omitted as unnecessary because of the restatement. The words “as he shall approve” are omitted as unnecessary because subsection (b) of the section establishes the Secretary of Transportation as the head of the Department of Transportation.

### AMENDMENTS

2002—Subsec. (d). Pub. L. 107-295, §215(a)(2), added subsec. (d). Former subsec. (d) redesignated (g).

Subsec. (e). Pub. L. 107-295, §215(a)(3), which directed the substitution of “Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy” for “Secretary and the Deputy Secretary” each place it appears in last sentence, was executed by making substitution for “Secretary and the Deputy Secretary” before “are absent” and for “Secretary and Deputy Secretary” before “are vacant”, to reflect the probable intent of Congress.

Subsec. (g). Pub. L. 107-295, §215(c), struck out subsec. (g) which read as follows: “The Department has an Associate Deputy Secretary appointed by the President, by and with the advice and consent of the Senate. The Associate Deputy Secretary shall carry out powers and duties prescribed by the Secretary.”

Pub. L. 107-295, §215(a)(1), redesignated subsec. (d) as (g).

1994—Subsecs. (e), (f). Pub. L. 103-272 redesignated subsec. (e), relating to judicial recognition of Department seal, as (f).

1984—Subsecs. (d), (e). Pub. L. 98-557 added subsec. (d) and redesignated former subsec. (d), relating to Assistant Secretaries and General Counsel, as (e).

### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-295, title II, §215(c), Nov. 25, 2002, 116 Stat. 2102, provided that the amendment to this section made by section 215(c) is effective on the date that an individual is appointed to the position of Under Secretary of Transportation for Policy under subsection (d) of this section. On Mar. 19, 2003, the United States Senate confirmed the appointment of the first Under Secretary of Transportation for Policy.

### NOTICE

Pub. L. 105-178, title V, §5003, June 9, 1998, 112 Stat. 422, provided that:

“(a) NOTICE OF REPROGRAMMING.—If any funds authorized for carrying out this title [see Tables for classification] or the amendments made by this title are subject to a reprogramming action that requires notice to be provided to the Committees on Appropriations of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

“(b) NOTICE OF REORGANIZATION.—On or before the 15th day preceding the date of any major reorganization of a program, project, or activity of the Department of Transportation for which funds are authorized by this title or the amendments made by this title, the Secretary shall provide notice of such reorganization to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.”

#### SURFACE TRANSPORTATION ADMINISTRATION

Pub. L. 102-240, title V, §5004, Dec. 18, 1991, 105 Stat. 2160, provided that:

“(a) STUDY.—Not later than 60 days after the date of the enactment of this Act [Dec. 18, 1991], the Secretary shall enter into an agreement with the National Academy of Public Administration to continue a study of options for organizing the Department of Transportation to increase the effectiveness of program delivery, reduce costs, and improve intermodal coordination among surface transportation-related agencies.

“(b) REPORT.—The Secretary shall report to Congress on the findings of the study continued under subsection (a) and recommend appropriate organizational changes no later than January 1, 1993. No organizational changes shall be implemented until such changes are approved by law.”

#### PERSON HOLDING POSITION OF ASSOCIATE DEPUTY SECRETARY UNTIL APRIL 15, 1985

Section 26(c) of Pub. L. 98-557 provided that: “Notwithstanding any other provision of law, until April 15, 1985, the position created by subsection (a) of this section [adding subsec. (d) of this section] may be held by a person named by the President alone from among qualified individuals.”

#### EX. ORD. NO. 11340, EFFECTIVE DATE

Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453, provided: By virtue of the authority vested in me as President of the United States by Section 15 [renumbered section 16] of the Department of Transportation Act (Public Law 89-670, approved October 15, 1966; 80 Stat. 950) April 1, 1967, is hereby prescribed as the date on which the Department of Transportation Act shall take effect.

LYNDON B. JOHNSON.

### § 103. Federal Railroad Administration

(a) The Federal Railroad Administration is an administration in the Department of Transportation. To carry out all railroad safety laws of the United States, the Administration is divided on a geographical basis into at least 8 safety offices. The Secretary of Transportation is responsible for all acts taken under those laws and for ensuring that the laws are uniformly administered and enforced among the safety offices.

(b) The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary.

(c) The Administrator shall carry out—

(1) duties and powers related to railroad safety vested in the Secretary by section

20134(c) and chapters 203-211 of this title, and chapter 213 of this title in carrying out chapters 203-211; and

(2) additional duties and powers prescribed by the Secretary.

(d) A duty or power specified by subsection (c)(1) of this section may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers and involving notice and hearing required by law is administratively final.

(e) Subject to the provisions of subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), the Secretary of Transportation may make, enter into, and perform such contracts, grants, leases, cooperative agreements, and other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and make such payments, by way of advance or reimbursement, as the Secretary may determine to be necessary or appropriate to carry out functions of the Federal Railroad Administration. The authority of the Secretary granted by this subsection shall be carried out by the Administrator. Notwithstanding any other provision of this chapter, no authority to enter into contracts or to make payments under this subsection shall be effective, except as provided for in appropriations Acts.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2414; Pub. L. 98-216, §2(2), Feb. 14, 1984, 98 Stat. 5; Pub. L. 103-272, §5(m)(1), July 5, 1994, 108 Stat. 1375; Pub. L. 103-440, title II, §216, Nov. 2, 1994, 108 Stat. 4624; Pub. L. 107-217, §3(n)(1), Aug. 21, 2002, 116 Stat. 1302.)

#### HISTORICAL AND REVISION NOTES

##### PUB. L. 97-449

| Revised Section | Source (U.S. Code)                                                                                                                                     | Source (Statutes at Large)                                                                                                                                            |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 103(a) .....    | 49:1652(e)(1) (1st sentence related to FRA).<br>49:1652a.                                                                                              | Oct. 15, 1966, Pub. L. 89-670, §§3(e) (related to FRA) (1), (3), (4), 6(f)(3)(C) (related to FRA), 80 Stat. 932, 940. July 8, 1976, Pub. L. 94-348, §6, 90 Stat. 820. |
| 103(b) .....    | 49:1652(e) (related to FRA) (1) (2d, last sentences), (3) (last sentence).                                                                             |                                                                                                                                                                       |
| 103(c) .....    | 49:1655(f)(3)(A).<br><br>49:1652(e)(3) (related to FRA) (less last sentence).<br>49:1652(e)(4) (related to FRA).<br>49:1655(f)(3)(C) (related to FRA). | Oct. 15, 1966, Pub. L. 89-670, §6(f)(3)(A), 80 Stat. 940; Aug. 22, 1972, Pub. L. 92-401, §6, 86 Stat. 617; Jan. 3, 1975, Pub. L. 93-633, §113(e)(1), 88 Stat. 2163.   |
| 103(d) .....    |                                                                                                                                                        |                                                                                                                                                                       |

In subsection (a), the words “To carry out” are substituted for “for purposes of administering and enforcing” in 49:1652a for consistency and to eliminate surplus words. The words “under those laws” are substituted for “pursuant to Federal railroad safety laws” to eliminate surplus words. The words “is responsible” are substituted for “shall retain full and final responsibility” and “shall be responsible” to eliminate surplus words. The words “and for the establishment of all policies with respect to implementation of such laws” are omitted as surplus.