

## TITLE 15 - COMMERCE AND TRADE

### CHAPTER 40 - DEPARTMENT OF COMMERCE

#### § 1501. Establishment of Department; Secretary; seal

There shall be at the seat of government an executive department to be known as the Department of Commerce, and a Secretary of Commerce, who shall be the head thereof, who shall be appointed by the President, by and with the advice and consent of the Senate, and whose term and tenure of office shall be like that of the heads of the other executive departments; and the provisions of title 4 of the Revised Statutes, including all amendments thereto, shall be applicable to said department. The said Secretary shall cause a seal of office to be made for the said department of such device as the President shall approve, and judicial notice shall be taken of the said seal.

(Feb. 14, 1903, ch. 552, § 1, 32 Stat. 825; Feb. 17, 1909, ch. 137, §§ 1, 2, 35 Stat. 626; Mar. 4, 1909, ch. 297, § 1, 35 Stat. 861; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; Mar. 3, 1917, ch. 163, § 1, 39 Stat. 1111; Mar. 4, 1925, ch. 549, § 4, 43 Stat. 1301.)

#### References in Text

Title 4 of the Revised Statutes, referred to in text, was entitled "Provisions Applicable to All Executive Departments", and consisted of R.S. §§ 158 to 198. For provisions of the Code derived from such title 4, see sections 101, 301, 303, 304, 503, 2952, 3101, 3106, 3341, 3345 to 3349, 5535, 5536 of Title 5, Government Organization and Employees; section 207 of Title 18, Crimes and Criminal Procedure; sections 514, 520 of Title 28, Judiciary and Judicial Procedure; section 3321 of Title 31, Money and Finance.

#### Codification

Section was formerly classified to section 591 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.

#### Transfer of Functions

A Department of Labor, under charge of a Commissioner of Labor, was established by act June 13, 1888, ch. 380, 25 Stat. 182, and by section 9 of that act, the Bureau of Labor created under act June 27, 1884, ch. 127, 23 Stat. 60, was to cease on the organization of the Department. The Department of Commerce and Labor, as an Executive Department, with a Secretary of Commerce and Labor as the head thereof, was established by act Feb. 14, 1903, ch. 552, 32 Stat. 825, and by section 4 of that act, the Department of Labor was placed under the jurisdiction and made a part of the Department of Commerce and Labor with various other offices, bureaus, and branches of the public service also transferred to and placed under the jurisdiction of the Department so established. In subsequent appropriation and other acts, the Department of Labor was designated as the Bureau of Labor in that Department. But by act March 4, 1913, ch. 141, 37 Stat. 736, a new executive department was created, to be called "The Department of Labor," with a Secretary of Labor to be the head thereof, and the Department of Commerce and Labor was thereafter to be called the Department of Commerce, and the Secretary thereof to be called the Secretary of Commerce.

Functions of all other officers of Department of Commerce and functions of all agencies and employees of such Department, with a few exceptions, transferred to Secretary of Commerce, with power vested in him to authorize their performance or the performance of any of his functions by any such officers, agencies, and employees by Reorg. Plan No. 5 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out below.

#### Deputy Secretary of Commerce

For provisions directing the President to appoint a Deputy Secretary of Commerce, by and with the advice and consent of the Senate, with the Deputy Secretary to receive compensation at the rate payable for Level II of the Executive Schedule and with the Deputy Secretary to perform such duties and exercise such powers as the Secretary may from time to time prescribe, see section 2(b)(1) of 1979 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

Creation of the Office of Deputy Secretary of Commerce by section 2(b)(1) of 1979 Reorg. Plan. No. 3 effective Dec. 7, 1979, see Ex. Ord. 12175, set out as a note under section 2171 of Title 19, Customs Duties.

## Order of Succession

For order of succession during any period when both Secretary and Deputy Secretary of Commerce are unable to perform functions and duties of office of Secretary, see Ex. Ord. No. 13242, Dec. 18, 2001, 66 F.R. 66260, set out as a note under section 3345 of Title 5, Government Organization and Employees.

### REORGANIZATION PLAN NO. 5 OF 1950

Eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, as amended July 2, 1954, ch. 456, title III, § 304, 68 Stat. 430

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see 5 U.S.C. 901 et seq.].

DEPARTMENT OF COMMERCE

## Section 1. Transfer of Functions to the Secretary

(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Commerce all functions of all other officers of the Department of Commerce and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) [see 5 U.S.C. 551 et seq. and 701 et seq.] in hearing examiners employed by the Department of Commerce, nor to the functions of the Civil Aeronautics Board, of the Inland Waterways Corporation, or of the Advisory Board of the Inland Waterways Corporation.

## Sec. 2. Performance of Functions of Secretary

The Secretary of Commerce may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Commerce of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

## Sec. 3. Administrative Assistant Secretary

[Repealed. July 2, 1954, ch. 456, title III, § 304, 68 Stat. 430. Section authorized an Administrative Assistant Secretary of Commerce.]

## Sec. 4. Incidental Transfers

The Secretary of Commerce may from time to time effect such transfers within the Department of Commerce of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

## Message of the President

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 5 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of Commerce. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 5 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Administrative Assistant Secretary of Commerce. The rate of compensation fixed for this officer is that which I have found to prevail in respect to comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

Harry S. Truman.

The White House, March 13, 1950.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

## **Federal Maritime Board, and Maritime Functions of Secretary of Commerce**

Section 307 of Reorg. Plan No. 21 of 1950, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1273, set out in the Appendix to Title 5, Government Organization and Employees, provided that the functions transferred by the provisions of that Plan should not be subject to the provisions of Reorg. Plan No. 5 of 1950, set out above. Said Reorg. Plan No. 21 of 1950 created, within the Department of Commerce, the Federal Maritime Board, and the Maritime Administration, the latter, with a Maritime Administrator at its head. It abolished the United States Maritime Commission, transferring some of its functions and some of the functions of its Chairman to said Federal Maritime Board. It transferred the remainder of the functions of that Commission and its Chairman to the Secretary of Commerce, with power vested in him to authorize their performance by said Maritime Administrator.

## **Ex. Ord. No. 13339. Increasing Economic Opportunity and Business Participation of Asian Americans and Pacific Islanders**

Ex. Ord. No. 13339, May 13, 2004, 69 F.R. 28037, as amended by Ex. Ord. No. 13403, § 3, May 12, 2006, 71 F.R. 28543, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and for the purpose of providing equal economic opportunities for full participation of Asian American and Pacific Islander businesses in our free market economy where they may be underserved and thus improving the quality of life for Asian Americans and Pacific Islanders, it is hereby ordered as follows:

Section 1. (a) There is established in the Department of Commerce the President's Advisory Commission on Asian Americans and Pacific Islanders (Commission). The Commission shall consist of not more than 15 members appointed by the President, one of whom shall be designated by the President as Chair. The Commission shall include members who: (i) have a history of involvement with the Asian American and Pacific Islander communities; (ii) are from the business enterprise sector; (iii) are from civic associations representing one or more of the diverse Asian American and Pacific Islander communities; (iv) are from the fields of economic, social, and community development; or (v) have such other experience as the President deems appropriate.

(b) The Secretary of Commerce (Secretary) shall designate an Executive Director for the Commission.

Sec. 2. The Commission shall provide advice to the President, through the Secretary, on:

(a) the development, monitoring, and coordination of executive branch efforts to improve the economic and community development of Asian American and Pacific Islander businesses through ensuring equal opportunity to participate in Federal programs, and public-sector, private-sector partnerships, and through the collection of data related to Asian American and Pacific Islander businesses; and

(b) ways to increase the business diversification of Asian Americans and Pacific Islanders, including ways to foster research and data on Asian American and Pacific Islander businesses including their level of participation in the national economy and their economic and community development.

Sec. 3. (a) The Secretary shall establish within the Department of Commerce an office known as the White House Initiative on Asian Americans and Pacific Islanders (Office). The Office shall provide support for the Commission and the interagency working group created in section 3(b) of this order.

(b) The Secretary shall also create an interagency working group (Working Group) whose activities shall be coordinated by the Department of Commerce. The Secretary shall designate the executive departments and agencies that shall serve on the Working Group (executive departments and agencies) and the heads of those departments and agencies shall select the officials that shall serve as their respective representatives on the Working Group. The Executive Director of the Commission shall also serve as the Director of the Office and the Working Group, and shall report to the Secretary or the Secretary's designee. The Director of the Working Group shall advise the Secretary or the Secretary's designee on efforts by the Federal Government to improve access to economic opportunities, through equal access to such opportunities, for Asian American and Pacific Islander businesses where they may be underserved and thus to improve the quality of life of Asian Americans and Pacific Islanders.

Sec. 4. The head of each executive department and agency on the Working Group shall designate a senior Federal official responsible for management or program administration to report directly to the agency head on activities implementing this order and to serve as a liaison to, and representative on, the Working Group. The Secretary may designate additional Federal officials, with the concurrence of the head of the designated executive department or agency, to carry out functions of the Working Group. To the extent permitted by law and to the extent practicable, each designated executive department and agency shall provide appropriate information requested by the Working Group, including data relating to the eligibility for and participation of Asian American and Pacific Islander businesses in Federal programs. Where adequate data are not available, the Working Group shall suggest the means of collecting such data.

*NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).*

Sec. 5. Each designated executive department and agency shall prepare a plan for, and shall document, its efforts to support economic opportunities for Asian American and Pacific Islander businesses. This plan shall address, among other things, executive branch efforts to:

- (a) increase participation in Federal programs for Asian American and Pacific Islander businesses through equal access to such programs;
- (b) ensure nondiscrimination in Federal contracts and procurement opportunities;
- (c) provide equal opportunity for public-sector, private-sector partnerships for the community and economic development of Asian American and Pacific Islander businesses; and
- (d) foster research and data collection on Asian American and Pacific Islander businesses. Each plan shall be submitted through the working group and the Commission to the Secretary at a date to be established by the Secretary.

Sec. 6. The Secretary shall review the plans of the designated executive departments and agencies and develop for submission to the President for his approval an integrated Federal plan (Federal Plan) to increase the participation of Asian American and Pacific Islander businesses in executive branch programs through equal access to such programs where such organizations may be underserved. Actions described in the Federal Plan shall address improving access by Asian American and Pacific Islander businesses to Federal programs and fostering advances in relevant research and data as it pertains to community economic development. The Secretary shall disseminate the Federal Plan, to the extent the Plan is approved by the President, to appropriate members of the executive branch. The findings and recommendations in the Federal Plan shall be followed by the designated executive departments and agencies in their policies and activities, to the extent permitted by law and as practicable.

Sec. 7. Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the "Act"), may apply to the administration of any portion of this order, any functions of the President under the Act, except that of reporting to the Congress, shall be performed by the Secretary in accordance with the guidelines issued by the Administrator of General Services.

Sec. 8. Members of the Commission shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707). To the extent permitted by law and appropriations, and where practicable, executive departments and agencies shall, upon request by the Secretary, provide assistance to the Commission and to the Working Group, and the Department of Commerce shall provide administrative support and funding for the Commission.

Sec. 9. The Commission shall terminate May 13, 2007, unless extended beyond that date by the President.

Sec. 10. For the purposes of this order, the term: (a) "Asian" includes persons having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent; and the term (b) "Pacific Islander" includes persons having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Sec. 11. The Secretary of Commerce shall consult the Attorney General as appropriate on the implementation of this order to ensure that such implementation affords the equal protection of the laws required by the due process clause of the Fifth Amendment to the Constitution.

Sec. 12. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by a party against the United States, its departments, agencies, entities, officers, employees or agents, or any other person.

George W. Bush.