Both non-positive and positive law titles contain laws; however, they are the result of different processes. Non-positive law titles contain separately enacted statutes that have been arranged by the editors of the U.S. Code. The organization, structure, and designations in non-positive law titles differ significantly from statutes passed by Congress. Congress has enacted positive law titles into law in their entirety, including the organization, structure, designations, and text. Essentially, Congress takes the entire title and enacts it into law.

A source credit immediately follows the text of each section of the U.S. Code. The source credit lists the law that enacted the section along with any amendments, and explains the derivations to each section. The source credit provides the public law number (or chapter number for legislation prior to 1957) and citation to the United States Statutes at Large (Statutes at Large) for the original enactment and any amendments. If a U.S. Code title has been enacted into positive law, it will provide the public law number and Statutes at Large citation in which Congress enacted the title into positive law. There will also be a “Historical and Revision Notes” section indicating where that statutory section was located in the non-positive law title of the U.S. Code and the source credit for the non-positive law statutory section.

This information is useful for several reasons.

- The source credit provides the statutory derivation for each section and shows how many times a section has been amended. If one knows how many times a section has been amended then one can determine what the

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2. According to the Office of Law Revision Counsel, the following titles of the U.S. Code have been enacted into positive law: 1, 3, 4, 5, 9, 10, 11, 13, 14, 17, 18, 23, 28, 31, 32, 35, 36, 37, 38, 39, 40, 41, 44, 46, 49, and 51. http://uscode.house.gov/about/info.shtml.


5. Id.
statutory law was at some specific point in time by looking at previous editions of the *U.S. Code*.

- The source credit provides information that is crucial when compiling a legislative history. To compile a legislative history for the original enactment of a statutory section or any of its amendments, one needs the public law number or the citation to the *Statutes at Large*.

- For non-positive law titles of the *U.S. Code*, the source credit is necessary to verify the accuracy of a code section. In a non-positive law title of the *U.S. Code*, if there is a conflict between the language of the *U.S. Code* and the *Statutes at Large*, the language of the *Statutes at Large* governs.\(^6\)

### Basic Elements of a *U.S. Code* Source Credit

 Generally, each entry in the source credit following a *U.S. Code* section in non-positive and positive law titles consists of:

- Public law number citation (or chapter citation if enacted prior to 1957)
- Division, titles, and section numbers (if any)
- Date of enactment
- *Statutes at Large* citation

However, there are variations to this basic format, and the most common are listed below for both non-positive law and positive law titles of the *U.S. Code*.

#### Example of a Source Credit in Non-Positive Law Titles of the *U.S. Code*

42 U.S.C. § 4054


The source credit for 42 U.S.C. § 4054 indicates that this section of the *U.S. Code* initially came from § 1334 of title XIII of Public Law No. 90-448, which was passed into law on August 1, 1968, and can be found on page 583 in volume 82 of the *Statutes at Large*. In non-positive law titles of the *U.S. Code*, this is known as the “base law,” and it is the act on which the *U.S. Code* section is based and of which it remains a part.\(^6\)

The source credit also indicates that 42 U.S.C. § 4054 has been amended twice. First on December 31, 1973, by § 111 of title I of Public Law No. 93-234, and again on November 30, 1983 by § 451(d)(1) of title IV of Public Law No. 98-181.

#### Example of an “As Added” Source Credit in Non-Positive Law Titles of the *U.S. Code*

2 U.S.C. § 439a


After the text of each section of the *U.S. Code*, the source credit lists the source laws that enacted and amended that section. The first law listed in a non-positive law title is the base law. The words “as added” preceding a law in the credit indicates that it amended the base law to add the section.

The source credit for 2 U.S.C. § 439a tells the reader that 2 U.S.C. § 439a is based upon § 313 of title III of Public Law No. 92-225. This section (2 U.S.C. § 439a) was not part of the base law (Public Law No. 92-225) and because of this there is no reference to the *Statutes at Large*. Section 439a was added on March 27, 2002, by title III, § 301 of Public Law No. 107-155. In other words, § 301 of Public Law No. 107-155 amended Public Law No. 92-225 by adding § 313.

It was later amended by div. H, title V, § 532 of Public Law No. 108-447 on December 8, 2004.


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\([^3\) United States v. Welden, 377 U.S. 95, 98 n. 4 (1964).]
“Because Congress passed the entire title into positive law, each section ‘is part of the title itself and neither comes from, nor is a part of, any other law.”

Example of a Source Credit in Positive Law Titles of the U.S. Code

23 U.S.C. § 302

In positive law titles of the U.S. Code, a source credit looks like a source credit in non-positive law titles; however, they do not have a base law. Because Congress passed the entire title into positive law, each section “is part of the title itself and neither comes from, nor is a part of, any other law.”

Example of an “Added” Source Credit in Positive Law Titles of the U.S. Code

32 U.S.C. § 902

In situations where a section of a positive law title of the U.S. Code was not included in the title when it was enacted as positive law but was added to the title by a subsequent act, the source credit will begin with the word “Added” followed by a citation to the act amending the section. The source credit for 32 U.S.C. § 902 indicates that it was added by div. A, title V, § 512(a)(1) of Public Law No. 108-375, and later amended by div. A, title X, § 1071(b)(1) of Public Law No. 109-364.

Conclusion

Source credits to the U.S. Code indicate when a statutory section was first passed into law and how many times it has been amended. This is important in determining if the language of a statutory section has changed through the years and in compiling a legislative history. If a legal researcher knows what to look for and can understand the different variations to a source credit in the U.S. Code, then it makes both of these tasks much easier.

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