

Sec.
3076. Presentation of United States flag upon retirement.

SUBCHAPTER I—GENERAL PROVISIONS

§ 3001. Commissioned officer corps

There shall be in the National Oceanic and Atmospheric Administration a commissioned officer corps.

(Pub. L. 107-372, title II, §211, Dec. 19, 2002, 116 Stat. 3082.)

SHORT TITLE

Pub. L. 107-372, title II, §201, Dec. 19, 2002, 116 Stat. 3082, provided that: "This title [enacting this chapter, amending section 1406 of Title 10, Armed Services, and section 2396 of Title 22, Foreign Relations and Intercourse, repealing sections 853a to 853l, 853o, 853p to 853r, 853t to 854, 855, 856 to 857-5, 858, 864, and 874 of this title, amending provisions set out as a note under section 1293 of Title 10, and repealing provisions set out as notes under sections 853a and 857-1 of this title and section 101 of Title 38, Veterans' Benefits] may be cited as the 'National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002'."

§ 3002. Definitions

(a) Applicability of definitions in title 10

Except as provided in subsection (b) of this section, the definitions provided in section 101 of title 10 apply to the provisions of this chapter.

(b) Additional definitions

In this chapter:

(1) Active duty

The term "active duty" means full-time duty in the active service of a uniformed service.

(2) Grade

The term "grade" means a step or degree, in a graduated scale of office or rank, that is established and designated as a grade by law or regulation.

(3) Officer

The term "officer" means an officer of the commissioned corps.

(4) Flag officer

The term "flag officer" means an officer serving in, or having the grade of, vice admiral, rear admiral, or rear admiral (lower half).

(5) Secretary

The term "Secretary" means the Secretary of Commerce.

(6) Administration

The term "Administration" means the National Oceanic and Atmospheric Administration.

(Pub. L. 107-372, title II, §212, Dec. 19, 2002, 116 Stat. 3082.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title II of Pub. L. 107-372, Dec. 19, 2002, 116 Stat. 3082, which is classified principally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 3001 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 857-1 of this title prior to repeal by Pub. L. 107-372.

§ 3003. Authorized number on the active list

(a) Annual strength on active list

The annual strength of the commissioned corps in officers on the lineal list of active duty officers of the corps shall be prescribed by law.

(b) Lineal list

The Secretary shall maintain a list, known as the "lineal list", of officers on active duty. Officers shall be carried on the lineal list by grade and, within grade, by seniority in grade.

(Pub. L. 107-372, title II, §213, Dec. 19, 2002, 116 Stat. 3083.)

§ 3004. Strength and distribution in grade

(a) Relative rank; proportion

Of the total authorized number of officers on the lineal list of the commissioned corps, there are authorized numbers in permanent grade, in relative rank with officers of the Navy, in proportions as follows:

- (1) 8 in the grade of captain.
- (2) 14 in the grade of commander.
- (3) 19 in the grade of lieutenant commander.
- (4) 23 in the grade of lieutenant.
- (5) 18 in the grade of lieutenant (junior grade).
- (6) 18 in the grade of ensign.

(b) Computation of number in grade

(1) In general

Subject to paragraph (2), whenever a final fraction occurs in computing the authorized number of officers in a grade, the nearest whole number shall be taken, and if the fraction is one-half the next higher whole number shall be taken.

(2) Limitation on increase in total number

The total number of officers on the lineal list authorized by law may not be increased as the result of the computations prescribed in this section, and if necessary the number of officers in the lowest grade shall be reduced accordingly.

(c) Preservation of grade and pay, etc.

No officer may be reduced in grade or pay or separated from the commissioned corps as the result of a computation made to determine the authorized number of officers in the various grades.

(d) Filling of vacancies; additional numbers

Nothing in this section may be construed as requiring the filling of any vacancy or as prohibiting additional numbers in any grade to compensate for vacancies existing in higher grades.

(e) Temporary increase in numbers

The total number of officers authorized by law to be on the lineal list during a fiscal year may be temporarily exceeded so long as the average number on that list during that fiscal year does not exceed the authorized number.

(Pub. L. 107-372, title II, §214, Dec. 19, 2002, 116 Stat. 3083.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853a of this title prior to repeal by Pub. L. 107-372.

§ 3005. Number of authorized commissioned officers

Effective October 1, 2009, the total number of authorized commissioned officers on the lineal list of the commissioned corps of the National Oceanic and Atmospheric Administration shall be increased from 321 to 379 if—

(1) the Secretary has submitted to the Congress—

(A) the Administration's ship recapitalization plan for fiscal years 2010 through 2024;

(B) the Administration's aircraft modernization plan; and

(C) supporting workforce management plans;

(2) appropriated funding is available; and

(3) the Secretary has justified organizational needs for the commissioned corps for each such fiscal year.

(Pub. L. 107-372, title II, §215, Dec. 19, 2002, 116 Stat. 3084; Pub. L. 110-386, §6, Oct. 10, 2008, 122 Stat. 4108.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853a of this title prior to repeal by Pub. L. 107-372.

AMENDMENTS

2008—Pub. L. 110-386 amended section generally. Prior to amendment, section read as follows: "There are authorized to be on the lineal list of the commissioned corps of the National Oceanic and Atmospheric Administration—

"(1) 270 officers for fiscal year 2003;

"(2) 285 officers for fiscal year 2004; and

"(3) 299 officers for fiscal year 2005."

SUBCHAPTER II—APPOINTMENT AND PROMOTION OF OFFICERS

§ 3021. Original appointments**(a) In general****(1) Grades**

Original appointments may be made in the grades of ensign, lieutenant (junior grade), and lieutenant.

(2) Qualifications

Under regulations prescribed by the Secretary, such an appointment may be given only to a person who—

(A) meets the qualification requirements specified in paragraphs (1) through (4) of section 532(a) of title 10; and

(B) has such other special qualifications as the Secretary may prescribe by regulation.

(3) Examination

A person may be given such an appointment only after passage of a mental and physical examination given in accordance with regulations prescribed by the Secretary.

(4) Revocation of commission of officers found not qualified

The President may revoke the commission of any officer appointed under this section

during the officer's first three years of service if the officer is found not qualified for the service. Any such revocation shall be made under regulations prescribed by the President.

(b) Lineal list

Each person appointed under this section shall be placed on the lineal list in a position commensurate with that person's age, education, and experience, in accordance with regulations prescribed by the Secretary.

(c) Service credit upon original appointment in grade above ensign**(1) In general**

For the purposes of basic pay, a person appointed under this section in the grade of lieutenant shall be credited as having, on the date of that appointment, three years of service, and a person appointed under this section in the grade of lieutenant (junior grade) shall be credited as having, as of the date of that appointment, 1½ years of service.

(2) Higher credit under other law

If a person appointed under this section is entitled to credit for the purpose of basic pay under any other provision of law that would exceed the amount of credit authorized by paragraph (1), that person shall be credited with that amount of service in lieu of the credit authorized by paragraph (1).

(Pub. L. 107-372, title II, §221, Dec. 19, 2002, 116 Stat. 3084.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853t of this title prior to repeal by Pub. L. 107-372.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (a)(4) of this section delegated to Secretary of Commerce by section 1(g) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, as amended, set out as a note under section 301 of Title 3, The President.

§ 3022. Personnel boards**(a) Convening**

At least once a year and at such other times as the Secretary determines necessary, the Secretary shall convene a personnel board. A personnel board shall consist of not less than five officers on the lineal list in the permanent grade of commander or above.

(b) Duties

Each personnel board shall—

(1) recommend to the Secretary such changes in the lineal list as the board may determine; and

(2) make selections and recommendations to the Secretary and President for the appointment, promotion, separation, continuation, and retirement of officers as prescribed in this subchapter and subchapter III of this chapter.

(c) Action on recommendations not acceptable

In a case in which any recommendation by a board convened under subsection (a) of this section is not accepted by the Secretary or the President, the board shall make such further recommendations as are acceptable.