

§ 42. Number and distribution of commissioned officers on active duty promotion list

(a) **MAXIMUM TOTAL NUMBER.**—The total number of Coast Guard commissioned officers on the active duty promotion list, excluding warrant officers, shall not exceed 7,200; except that the Commandant may temporarily increase that number by up to 2 percent for no more than 60 days following the date of the commissioning of a Coast Guard Academy class.

(b) **DISTRIBUTION PERCENTAGES BY GRADE.**—

(1) **REQUIRED.**—The total number of commissioned officers authorized by this section shall be distributed in grade in the following percentages: 0.375 percent for rear admiral; 0.375 percent for rear admiral (lower half); 6.0 percent for captain; 15.0 percent for commander; and 22.0 percent for lieutenant commander.

(2) **DISCRETIONARY.**—The Secretary shall prescribe the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign.

(3) **AUTHORITY OF SECRETARY TO REDUCE PERCENTAGE.**—The Secretary—

(A) may reduce, as the needs of the Coast Guard require, any of the percentages set forth in paragraph (1); and

(B) shall apply that total percentage reduction to any other lower grade or combination of lower grades.

(c) **COMPUTATIONS.**—

(1) **IN GENERAL.**—The Secretary shall compute, at least once each year, the total number of commissioned officers authorized to serve in each grade by applying the grade distribution percentages established by or under this section to the total number of commissioned officers listed on the current active duty promotion list.

(2) **ROUNDING FRACTIONS.**—Subject to subsection (a), in making the computations under paragraph (1), any fraction shall be rounded to the nearest whole number.

(3) **TREATMENT OF OFFICERS SERVING OUTSIDE COAST GUARD.**—The number of commissioned officers on the active duty promotion list below the rank of rear admiral (lower half) serving with other Federal departments or agencies on a reimbursable basis or excluded under section 324(d) of title 49 shall not be counted against the total number of commissioned officers authorized to serve in each grade.

(d) **USE OF NUMBERS; TEMPORARY INCREASES.**—The numbers resulting from computations under subsection (c) shall be, for all purposes, the authorized number in each grade; except that the authorized number for a grade is temporarily increased during the period between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.

(e) **OFFICERS SERVING COAST GUARD ACADEMY AND RESERVE.**—The number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy and of the Reserve

serving in connection with organizing, administering, recruiting, instructing, or training the reserve components shall be prescribed by the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 497; July 20, 1956, ch. 647, § 2, 70 Stat. 588; Pub. L. 86-474, § 1(2), May 14, 1960, 74 Stat. 144; Pub. L. 88-130, § 1(2), Sept. 24, 1963, 77 Stat. 174; Pub. L. 89-444, § 1(2), June 9, 1966, 80 Stat. 195; Pub. L. 90-385, July 5, 1968, 82 Stat. 293; Pub. L. 92-451, § 1(2), Oct. 2, 1972, 86 Stat. 755; Pub. L. 93-174, § 1(2), Dec. 5, 1973, 87 Stat. 692; Pub. L. 96-23, § 4, June 13, 1979, 93 Stat. 68; Pub. L. 97-417, § 2(2), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 97-449, § 5(b), Jan. 12, 1983, 96 Stat. 2442; Pub. L. 98-557, § 25(a)(1), Oct. 30, 1984, 98 Stat. 2872; Pub. L. 99-145, title V, § 514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 103-206, title II, § 201, Dec. 20, 1993, 107 Stat. 2420; Pub. L. 108-293, title II, § 214, Aug. 9, 2004, 118 Stat. 1037; Pub. L. 111-281, title II, § 204(a), Oct. 15, 2010, 124 Stat. 2910.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 6a (July 23, 1947, ch. 301, § 1, 61 Stat. 409).

The only change is in phraseology in the second sentence, it being necessary to include the extra numbers authorized by the act of July 23, 1947, in the figure given as the present number of extra numbers in the Coast Guard. 81st Congress, House Report No. 557.

AMENDMENTS

2010—Pub. L. 111-281 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (e) relating to number and distribution of commissioned officers.

2004—Subsec. (a). Pub. L. 108-293, § 214(1), substituted “6,700 in each fiscal year 2004, 2005, and 2006” for “6,200”.

Subsec. (b). Pub. L. 108-293, § 214(2), substituted “commander 15.0; lieutenant commander 22.0” for “commander 12.0; lieutenant commander 18.0”.

1993—Subsec. (a). Pub. L. 103-206 substituted “6,200” for “6,000”.

1985—Subsec. (b). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commander”.

1984—Subsec. (b). Pub. L. 98-557 substituted “0.375” for “.375” in two places.

1983—Subsec. (b). Pub. L. 97-417 substituted “.375; commodore .375;” for “.75;” after “rear admiral”.

Subsec. (e). Pub. L. 97-449 substituted “section 324(d) of title 49” for “section 9(d)(1) of the Department of Transportation Act (80 Stat. 944; 49 U.S.C. 1657)”.

1979—Subsec. (a). Pub. L. 96-23 substituted “6,000” for “five thousand”.

1973—Subsec. (e). Pub. L. 93-174 substituted “Coast Guard Academy and of the” for “Coast Guard Academy, of the” and struck out “, and of the Women’s Reserve” after “training and reserve components”.

1972—Subsec. (e). Pub. L. 92-451 inserted provision that officers excluded under section 1657(d)(1) of Title 49 shall not be counted in determining authorized strengths.

1968—Subsec. (a). Pub. L. 90-385 substituted “five thousand” for “four thousand”.

1966—Subsec. (a). Pub. L. 89-444 substituted “four thousand” for “three thousand five hundred”.

1963—Pub. L. 88-130 specified percentage of distribution of commissioned officers from rear admiral to lieutenant commander, authorized Secretary to prescribe percentages for lieutenant, lieutenant (junior grade), and ensign, required number in each grade to be computed by applying the applicable percentage to the total number of officers serving on active duty on the date the computation is made, provided that officers not on the active duty promotion list, officers serving

as extra numbers in grade, and officers serving with other departments or agencies on a reimbursable basis shall not be counted in determining authorized strengths and that the number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy, of the Reserve, and of the Women's Reserve shall be prescribed by the Secretary, and struck out provisions which included in the number of commissioned officers the extra numbers in grade which increase the authorized number of line officers upon separation or retirement of the person holding such number, and the members of the permanent commissioned teaching staff of the Coast Guard Academy, distributed commissioned officers in grades in the same percentages as prescribed for the Navy, determined authorized number of officers in the various grades by the actual number on active duty, including permanent, temporary, and reserve officers, but not including extra numbers in the Coast Guard at the date of making the computation, and which provided that no officer be reduced in permanent grade or pay or removed from the active list as a result of any computation of the number of officers in grade.

1960—Pub. L. 86-474 substituted "three thousand five hundred" for "three thousand".

1956—Act July 20, 1956, substituted "three thousand" for "two thousand two hundred and fifty" and inserted "except that the authorized number for a grade is temporarily increased during the period between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-451 effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92-451, set out as a note under section 290 of this title.

[§ 43. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 498, provided for relative rank of commissioned officers with respect to Army and Navy officers. See section 741 of Title 10, Armed Forces.

§ 44. Commandant; appointment

The President may appoint, by and with the advice and consent of the Senate, one Commandant for a period of four years, who may be reappointed for further periods of four years, who shall act as Chief of the Coast Guard. The Commandant shall be appointed from the officers on the active duty promotion list serving above the grade of captain who have completed at least ten years of active service as a commissioned officer in the Coast Guard. The Commandant while so serving shall have the grade of admiral.

(Aug. 4, 1949, ch. 393, 63 Stat. 498; Pub. L. 86-474, § 1(3), May 14, 1960, 74 Stat. 144; Pub. L. 88-130, § 1(3), Sept. 24, 1963, 77 Stat. 175; Pub. L. 89-444, § 1(3), June 9, 1966, 80 Stat. 195; Pub. L. 92-451, § 1(3), Oct. 2, 1972, 86 Stat. 755.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 11 (Apr. 16, 1908, ch. 145, §§ 1, 2, 35 Stat. 61; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; Jan. 12, 1923, ch. 25, § 2, 42 Stat. 1130; Apr. 23, 1930, ch. 211, 46 Stat. 253; June 9, 1937, ch. 309, § 1, 50 Stat. 252; June 6, 1940, ch. 257, § 1(a), 54 Stat. 246).

Said section has been divided. The provisions of the first proviso are placed in section 45 of this title, and the remainder is placed in this section.

The grade of the Commandant is fixed as vice admiral rather than that prescribed for Bureau Chiefs of the Navy. The additional qualifications that an officer appointed Commandant must have at least 10 years commissioned service in the Coast Guard has been inserted. 81st Congress, House Report No. 557.

AMENDMENTS

1972—Pub. L. 92-451 substituted "above the grade of captain" for "in the grade of captain or above" in second sentence.

1966—Pub. L. 89-444 struck out provision that the position of an officer appointed Commandant be filled by promotion according to law.

1963—Pub. L. 88-130 substituted "officers on the active duty promotion list serving in the grade of" for "active list of officers who hold a permanent commission as", required qualifying period of 10 years commissioned service to be "active" service, and struck out "pay, and allowances" before "of admiral".

1960—Pub. L. 86-474 substituted "active list of officers" for "active list of line officers", "captain or above" for "commander or above", and "allowances of admiral" for "allowances of vice admiral".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-451 effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92-451, set out as a note under section 290 of this title.

EFFECTIVE DATE OF HIGHER GRADE AND INCREASED PAY AND ALLOWANCES

Pub. L. 86-474, § 2, May 14, 1960, 74 Stat. 146, provided that: "The increased grade of admiral for the Commandant and vice admiral for the Assistant Commandant [now Vice Commandant], including the pay and allowances applicable to such grades, shall be effective on the first day of the month following enactment of this Act [May 14, 1960]."

SAVINGS PROVISION

Pub. L. 86-474, § 3, May 14, 1960, 74 Stat. 146, provided that: "Except as provided by section 2 [set out as a note under this section], the amendments by section 1 [amending sections 41, 42, 44, 46, 47, 186 to 191, 222, 247(c), 365, and 462 of this title, and repealing sections 45, 48, and 49 of this title] shall not operate to change or deprive the present incumbents serving as Commandant, Assistant Commandant [now Vice Commandant], and Engineer in Chief of any rights, benefits and privileges appertaining to such offices on the day preceding the date of enactment of this Act [May 14, 1960], nor to divest them of their offices for the terms appointed."

[§ 45. Repealed. Pub. L. 86-474, § 1(4), May 14, 1960, 74 Stat. 144]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 498, related to permanent grade of Commandant on expiration of term.

§ 46. Retirement of Commandant

(a) A Commandant who is not reappointed shall be retired with the grade of admiral at the expiration of the appointed term, except as provided in subsection¹ 51(d) of this title.

(b) A Commandant who is retired for physical disability shall be placed on the retired list with the grade of admiral.

(c) An officer who is retired prior to the expiration of his term, while serving as Commandant, may, in the discretion of the President, be retired with the grade of admiral.

¹ So in original. Probably should be "section".