

Memorandum of President of the United States, Feb. 12, 2003, 68 F.R. 10141.

ENVIRONMENTAL PROTECTION AGENCY

Ex. Ord. No. 13614, May 21, 2012, 77 F.R. 31157.

Ex. Ord. No. 13261, Mar. 19, 2002, 67 F.R. 13243, as amended by Ex. Ord. No. 13344, July 7, 2004, 69 F.R. 41747, revoked by Ex. Ord. No. 13614, §3, May 21, 2012, 77 F.R. 31157.

FEDERAL BUREAU OF INVESTIGATION

Memorandum of President of the United States, Feb. 9, 2007, 72 F.R. 7343.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Memorandum of President of the United States, Nov. 26, 2002, 67 F.R. 79513, terminated upon the transfer of the authorities, functions, personnel, and assets of the Federal Emergency Management Agency to the Department of Homeland Security.

FEDERAL MEDIATION AND CONCILIATION SERVICE

Memorandum of President of the United States, Oct. 17, 2014, 79 F.R. 63803.

GENERAL SERVICES ADMINISTRATION

Memorandum of President of the United States, Sept. 20, 2013, 78 F.R. 59161.

MILLENNIUM CHALLENGE CORPORATION

Memorandum of President of the United States, May 21, 2012, 77 F.R. 31161.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Memorandum of President of the United States, Jan. 16, 2009, 74 F.R. 4099.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Memorandum of President of the United States, May 21, 2012, 77 F.R. 31163.

OFFICE OF MANAGEMENT AND BUDGET

Ex. Ord. No. 13615, May 21, 2012, 77 F.R. 31159.

Ex. Ord. No. 13370, Jan. 13, 2005, 70 F.R. 3137, revoked by Ex. Ord. No. 13615, §3, May 21, 2012, 77 F.R. 31159.

OFFICE OF PERSONNEL MANAGEMENT

Memorandum of President of the United States, May 21, 2012, 77 F.R. 31165.

Memorandum of President of the United States, May 5, 2005, 70 F.R. 28773, superseded by Memorandum of President of the United States, May 21, 2012, 77 F.R. 31165.

Memorandum of President of the United States, Mar. 11, 2003, 68 F.R. 12281, superseded by Memorandum of President of the United States, May 5, 2005, 70 F.R. 28773.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Memorandum of President of the United States, Aug. 5, 2009, 74 F.R. 39871.

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Memorandum of President of the United States, Sept. 20, 2013, 78 F.R. 59159.

Memorandum of President of the United States, Mar. 8, 2011, 76 F.R. 13499, revoked by Memorandum of President of the United States, §4, Sept. 20, 2013, 78 F.R. 59159.

Memorandum of President of the United States, Oct. 3, 2008, 73 F.R. 58869, revoked by Memorandum of President of the United States, §5, Mar. 8, 2011, 76 F.R. 13499.

Memorandum of President of the United States, Dec. 20, 2005, 70 F.R. 76375, superseded by Memorandum of President of the United States, §4, Oct. 3, 2008, 73 F.R. 58869.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Memorandum of President of the United States, Feb. 20, 2007, 72 F.R. 8085.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Memorandum of President of the United States, June 6, 2011, 76 F.R. 33613.

Memorandum of President of the United States, Jan. 16, 2009, 74 F.R. 4101, revoked by Memorandum of President of the United States, §3, June 6, 2011, 76 F.R. 33613.

PENSION BENEFIT GUARANTY CORPORATION

Memorandum of President of the United States, Feb. 1, 2013, 78 F.R. 8953.

Memorandum of President of the United States, Dec. 9, 2008, 73 F.R. 75533, superseded by Memorandum of President of the United States, §3, Feb. 1, 2013, 78 F.R. 8953.

SOCIAL SECURITY ADMINISTRATION

Memorandum of President of the United States, Oct. 17, 2014, 79 F.R. 63805.

Memorandum of President of the United States, Oct. 17, 2008, 73 F.R. 62845, revoked by Memorandum of President of the United States, §3, Oct. 17, 2014, 79 F.R. 63805.

Memorandum of President of the United States, Apr. 17, 2006, 71 F.R. 20333, superseded by Memorandum of President of the United States, §3, Oct. 17, 2008, 73 F.R. 62845.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

Memorandum of President of the United States, Dec. 9, 2008, 73 F.R. 75535.

UNITED STATES SECTION, INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Memorandum of President of the United States, Aug. 31, 2009, 74 F.R. 45533.

§ 3346. Time limitation

(a) Except in the case of a vacancy caused by sickness, the person serving as an acting officer as described under section 3345 may serve in the office—

(1) for no longer than 210 days beginning on the date the vacancy occurs; or

(2) subject to subsection (b), once a first or second nomination for the office is submitted to the Senate, from the date of such nomination for the period that the nomination is pending in the Senate.

(b)(1) If the first nomination for the office is rejected by the Senate, withdrawn, or returned to the President by the Senate, the person may continue to serve as the acting officer for no more than 210 days after the date of such rejection, withdrawal, or return.

(2) Notwithstanding paragraph (1), if a second nomination for the office is submitted to the Senate after the rejection, withdrawal, or return of the first nomination, the person serving as the acting officer may continue to serve—

(A) until the second nomination is confirmed; or

(B) for no more than 210 days after the second nomination is rejected, withdrawn, or returned.

(c) If a vacancy occurs during an adjournment of the Congress sine die, the 210-day period under subsection (a) shall begin on the date that the Senate first reconvenes.

(Added Pub. L. 105-277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681-612.)

PRIOR PROVISIONS

A prior section 3346, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 426, provided for details to subordinate offices,

prior to repeal by Pub. L. 105-277, div. C, title I, §151(b), (d)(1), Oct. 21, 1998, 112 Stat. 2681-611, 2681-616, effective 30 days after Oct. 21, 1998. See section 3345 of this title.

EFFECTIVE DATE

Section effective 30 days after Oct. 21, 1998, and applicable to any office that becomes vacant after such effective date, with certain exceptions, see section 151(d) of Pub. L. 105-277, set out as a note under section 3345 of this title.

§ 3347. Exclusivity

(a) Sections 3345 and 3346 are the exclusive means for temporarily authorizing an acting official to perform the functions and duties of any office of an Executive agency (including the Executive Office of the President, and other than the Government Accountability Office) for which appointment is required to be made by the President, by and with the advice and consent of the Senate, unless—

(1) a statutory provision expressly—

(A) authorizes the President, a court, or the head of an Executive department, to designate an officer or employee to perform the functions and duties of a specified office temporarily in an acting capacity; or

(B) designates an officer or employee to perform the functions and duties of a specified office temporarily in an acting capacity; or

(2) the President makes an appointment to fill a vacancy in such office during the recess of the Senate pursuant to clause 3 of section 2 of article II of the United States Constitution.

(b) Any statutory provision providing general authority to the head of an Executive agency (including the Executive Office of the President, and other than the Government Accountability Office) to delegate duties statutorily vested in that agency head to, or to reassign duties among, officers or employees of such Executive agency, is not a statutory provision to which subsection (a)(1) applies.

(Added Pub. L. 105-277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681-613; amended Pub. L. 106-31, title V, §5011, May 21, 1999, 113 Stat. 112; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

PRIOR PROVISIONS

A prior section 3347, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 426, provided for Presidential authority relating to details, prior to repeal by Pub. L. 105-277, div. C, title I, §151(b), (d)(1), Oct. 21, 1998, 112 Stat. 2681-611, 2681-616, effective 30 days after Oct. 21, 1998. See section 3345 of this title.

AMENDMENTS

2004—Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in introductory provisions of subsec. (a) and in subsec. (b).

1999—Subsec. (b). Pub. L. 106-31 substituted “subsection (a)(1)” for “subsection (a)(2)”.

EFFECTIVE DATE

Section effective 30 days after Oct. 21, 1998, and applicable to any office that becomes vacant after such effective date, with certain exceptions, see section 151(d) of Pub. L. 105-277, set out as a note under section 3345 of this title.

§ 3348. Vacant office

(a) In this section—

(1) the term “action” includes any agency action as defined under section 551(13); and

(2) the term “function or duty” means any function or duty of the applicable office that—

(A)(i) is established by statute; and

(ii) is required by statute to be performed by the applicable officer (and only that officer); or

(B)(i)(I) is established by regulation; and

(II) is required by such regulation to be performed by the applicable officer (and only that officer); and

(ii) includes a function or duty to which clause (i)(I) and (II) applies, and the applicable regulation is in effect at any time during the 180-day period preceding the date on which the vacancy occurs.

(b) Unless an officer or employee is performing the functions and duties in accordance with sections 3345, 3346, and 3347, if an officer of an Executive agency (including the Executive Office of the President, and other than the Government Accountability Office) whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate, dies, resigns, or is otherwise unable to perform the functions and duties of the office—

(1) the office shall remain vacant; and

(2) in the case of an office other than the office of the head of an Executive agency (including the Executive Office of the President, and other than the Government Accountability Office), only the head of such Executive agency may perform any function or duty of such office.

(c) If the last day of any 210-day period under section 3346 is a day on which the Senate is not in session, the second day the Senate is next in session and receiving nominations shall be deemed to be the last day of such period.

(d)(1) An action taken by any person who is not acting under section 3345, 3346, or 3347, or as provided by subsection (b), in the performance of any function or duty of a vacant office to which this section and sections 3346, 3347, 3349, 3349a, 3349b, and 3349c apply shall have no force or effect.

(2) An action that has no force or effect under paragraph (1) may not be ratified.

(e) This section shall not apply to—

(1) the General Counsel of the National Labor Relations Board;

(2) the General Counsel of the Federal Labor Relations Authority;

(3) any Inspector General appointed by the President, by and with the advice and consent of the Senate;

(4) any Chief Financial Officer appointed by the President, by and with the advice and consent of the Senate; or

(5) an office of an Executive agency (including the Executive Office of the President, and other than the Government Accountability Office) if a statutory provision expressly prohibits the head of the Executive agency from performing the functions and duties of such office.

(Added Pub. L. 105-277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681-613; amended Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)