

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.

**(c) Action on recommendations not acceptable**

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

(Pub. L. 107-372, title II, §222, Dec. 19, 2002, 116 Stat. 3085.)

PRIOR PROVISIONS

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

**§ 3023. Promotion of ensigns to grade of lieutenant (junior grade)**

**(a) In general**

An officer in the permanent grade of ensign shall be promoted to and appointed in the grade of lieutenant (junior grade) upon completion of three years of service. The authorized number of officers in the grade of lieutenant (junior grade) shall be temporarily increased as necessary to authorize such appointment.

**(b) Separation of ensigns found not fully qualified**

If an officer in the permanent grade of ensign is at any time found not fully qualified, the officer's commission shall be revoked and the officer shall be separated from the commissioned service.

(Pub. L. 107-372, title II, §223, Dec. 19, 2002, 116 Stat. 3085.)

PRIOR PROVISIONS

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

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b) of this section delegated to Secretary of Commerce by section 1(a) 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.

**§ 3024. Promotion by selection to permanent grades above lieutenant (junior grade)**

Promotion to fill vacancies in each permanent grade above the grade of lieutenant (junior grade) shall be made by selection from the next lower grade upon recommendation of the personnel board.

(Pub. L. 107-372, title II, §224, Dec. 19, 2002, 116 Stat. 3085.)

PRIOR PROVISIONS

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

**§ 3025. Length of service for promotion purposes**

**(a) General rule**

Each officer shall be assumed to have, for promotion purposes, at least the same length of service as any other officer below that officer on the lineal list.

**(b) Exception**

Notwithstanding subsection (a), an officer who has lost numbers shall be assumed to have, for promotion purposes, no greater service than the officer next above such officer in such officer's new position on the lineal list.

(Pub. L. 107-372, title II, §225, Dec. 19, 2002, 116 Stat. 3085.)

PRIOR PROVISIONS

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

**§ 3026. Appointments and promotions to permanent grades**

Appointments in and promotions to all permanent grades shall be made by the President.

(Pub. L. 107-372, title II, §226, Dec. 19, 2002, 116 Stat. 3085; Pub. L. 112-166, §2(gg)(1), Aug. 10, 2012, 126 Stat. 1290.)

PRIOR PROVISIONS

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

AMENDMENTS

2012—Pub. L. 112-166 struck out “, by and with the advice and consent of the Senate” before period at end.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112-166, set out as a note under section 113 of Title 6, Domestic Security.

**§ 3027. General qualification of officers for promotion to higher permanent grade**

No officer may be promoted to a higher permanent grade on the active list until the officer has passed a satisfactory mental and physical examination in accordance with regulations prescribed by the Secretary.

(Pub. L. 107-372, title II, §227, Dec. 19, 2002, 116 Stat. 3085.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 854 of this title prior to repeal by Pub. L. 107-372.

**§ 3028. Positions of importance and responsibility**

**(a) Designation of positions**

The Secretary may designate positions in the Administration as being positions of importance and responsibility for which it is appropriate that officers of the Administration, if serving in those positions, serve in the grade of vice admiral, rear admiral, or rear admiral (lower half), as designated by the Secretary for each position.