

(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.