

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.

**§ 3030. Temporary appointment or advancement of commissioned officers in time of war or national emergency**

**(a) In general**

Officers of the Administration shall be subject in like manner and to the same extent as personnel of the Navy to all laws authorizing temporary appointment or advancement of commissioned officers in time of war or national emergency.

**(b) Limitations**

Subsection (a) shall be applied subject to the following limitations:

(1) A commissioned officer in the service of a military department under section 3061 of this title may, upon the recommendation of the Secretary of the military department concerned, be temporarily promoted to a higher rank or grade.

(2) A commissioned officer in the service of the Administration may be temporarily promoted to fill vacancies in ranks and grades caused by the transfer of commissioned officers to the service and jurisdiction of a military department under section 3061 of this title.

(3) Temporary appointments may be made in all grades to which original appointments in the Administration are authorized, except that the number of officers holding temporary appointments may not exceed the number of officers transferred to a military department under section 3061 of this title.

(Pub. L. 107-372, title II, §230, Dec. 19, 2002, 116 Stat. 3087.)

CODIFICATION

Provisions similar to this section are contained in section 854a-1 of this title.

DELEGATION OF FUNCTIONS

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

**§ 3031. Pay and allowances; date of acceptance of promotion**

**(a) Acceptance and date of promotion**

An officer of the commissioned corps who is promoted to a higher grade—

(1) is deemed for all purposes to have accepted the promotion upon the date the promotion is made by the President, unless the officer expressly declines the promotion; and

(2) shall receive the pay and allowances of the higher grade from that date unless the officer is entitled under another provision of law to receive the pay and allowances of the higher grade from an earlier date.

**(b) Oath of office**

An officer who subscribed to the oath of office required by section 3331 of title 5 shall not be required to renew such oath or to take a new oath

upon promotion to a higher grade, if the service of the officer after the taking of such oath is continuous.

(Pub. L. 107-372, title II, §231, Dec. 19, 2002, 116 Stat. 3087.)

CODIFICATION

Provisions similar to this section are contained in section 854a-2 of this title.

**§ 3032. Service credit as deck officer or junior engineer for promotion purposes**

For purposes of promotion, there shall be counted in addition to active commissioned service, service as deck officer or junior engineer.

(Pub. L. 107-372, title II, §232, Dec. 19, 2002, 116 Stat. 3088.)

CODIFICATION

Provisions similar to this section are contained in section 854a of this title.

**§ 3033. Suspension during war or emergency**

In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in the President's discretion, to suspend the operation of all or any part of the provisions of law pertaining to promotion of commissioned officers of the Administration.

(Pub. L. 107-372, title II, §233, Dec. 19, 2002, 116 Stat. 3088.)

PRIOR PROVISIONS

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

SUBCHAPTER III—SEPARATION AND RETIREMENT OF OFFICERS

**§ 3041. Involuntary retirement or separation**

**(a) Transfer of officers to retired list; separation from service**

As recommended by a personnel board convened under section 3022 of this title—

(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

**(b) Computations**

In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) plus the number of officers retired for age may not exceed the whole number nearest 4 percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

**(c) Effective date of retirements and separations**

A retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretary approves the retirement or separation, except that if the officer concerned re-