

dent by former section 633(2)8 (last sentence) to make exceptions to the Civil Service Rules are preserved by the words “positions which are specifically excepted from the competitive service by or under statute”.

In subsection (a)(1)(B), the words “or to pass an examination” are omitted as covered by the exclusion from the “competitive service”.

Subsection (a)(2) preserves the exception stated in former section 638 modified to recognize the several statutory exceptions to this exception that have been enacted. The language of former section 638 relative to examination is codified in sections 3304(b) and 3361. The reference to veterans’ preference is omitted because the statute referred to, R.S. §1754, was superseded by sections 3 and 21 of the Act of June 18, 1929, ch. 28, 46 Stat. 21. Section 3 of the Act of June 18, 1929, was superseded by the Act of June 27, 1944, ch. 287, 58 Stat. 387, as amended, which is carried into this title. Rights preserved by section 18 of the Act of June 27, 1944, are further preserved by technical section 8. The exception for laborers and workmen was superseded by the Act of Nov. 26, 1940.

Subsection (b) is added because of the provisions in section 3311 of title 39.

Subsection (c) is supplied for conformity inasmuch as the terms are coextensive by definition.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### AMENDMENTS

1978—Subsec. (a)(1)(C). Pub. L. 95-454 added cl. (C).

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415 of Pub. L. 95-454, set out as an Effective Date note under section 3131 of this title.

### § 2103. The excepted service

(a) For the purpose of this title, the “excepted service” consists of those civil service positions which are not in the competitive service or the Senior Executive Service.

(b) As used in other Acts of Congress, “unclassified civil service” or “unclassified service” means the “excepted service”.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 408; Pub. L. 95-454, title IV, §401(c), Oct. 13, 1978, 92 Stat. 1154.)

#### HISTORICAL AND REVISION NOTES

The section is supplied for convenience. The “excepted service” has come to mean all employees not in the competitive service, for whatever reason.

#### AMENDMENTS

1978—Subsec. (a). Pub. L. 95-454 inserted reference to Senior Executive Service.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415 of Pub. L. 95-454, set out as an Effective Date note under section 3131 of this title.

### § 2104. Officer

(a) For the purpose of this title, “officer”, except as otherwise provided by this section or when specifically modified, means a justice or judge of the United States and an individual who is—

(1) required by law to be appointed in the civil service by one of the following acting in an official capacity—

- (A) the President;
- (B) a court of the United States;
- (C) the head of an Executive agency; or
- (D) the Secretary of a military department;

(2) engaged in the performance of a Federal function under authority of law or an Executive act; and

(3) subject to the supervision of an authority named by paragraph (1) of this section, or the Judicial Conference of the United States, while engaged in the performance of the duties of his office.

(b) Except as otherwise provided by law, an officer of the United States Postal Service or of the Postal Regulatory Commission is deemed not an officer for purposes of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 408; Pub. L. 91-375, §6(c)(3), Aug. 12, 1970, 84 Stat. 775; Pub. L. 109-435, title VI, §604(b), Dec. 20, 2006, 120 Stat. 3241.)

#### HISTORICAL AND REVISION NOTES

The section is supplied for convenience.

#### AMENDMENTS

2006—Subsec. (b). Pub. L. 109-435 substituted “Postal Regulatory Commission” for “Postal Rate Commission”.

1970—Subsec. (a). Pub. L. 91-375, §6(c)(3)(A), (B), designated existing provisions as subsec. (a) and inserted in introductory text “as otherwise provided by this section or” after “except”.

Subsec. (b). Pub. L. 91-375, §6(c)(3)(C), added subsec. (b).

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by Board of Governors of United States Postal Service and published by it in Federal Register, see section 15(a) of Pub. L. 91-375, set out as an Effective Date note preceding section 101 of Title 39, Postal Service.

### § 2105. Employee

(a) For the purpose of this title, “employee”, except as otherwise provided by this section or when specifically modified, means an officer and an individual who is—

(1) appointed in the civil service by one of the following acting in an official capacity—

- (A) the President;
- (B) a Member or Members of Congress, or the Congress;
- (C) a member of a uniformed service;
- (D) an individual who is an employee under this section;
- (E) the head of a Government controlled corporation; or
- (F) an adjutant general designated by the Secretary concerned under section 709(c) of title 32;

(2) engaged in the performance of a Federal function under authority of law or an Executive act; and

(3) subject to the supervision of an individual named by paragraph (1) of this subsection while engaged in the performance of the duties of his position.

(b) An individual who is employed at the United States Naval Academy in the mid-