

the grade and number the officer would have occupied but for serving in a grade above that of captain. In such a case, the officer shall be an extra number in that grade.

(e) Limit on number of officers appointed

The total number of officers serving on active duty at any one time in the grade of rear admiral (lower half) or above may not exceed five, with only one serving in the grade of vice admiral.

(f) Pay and allowances

An officer appointed to a grade under this section, while serving in that grade or in a period of annual leave used at the end of the appointment, shall have the pay and allowances of the grade to which appointed.

(g) Effect of appointment

An appointment of an officer under this section—

- (1) does not vacate the permanent grade held by the officer; and
- (2) creates a vacancy on the active list.

(Pub. L. 107-372, title II, §228, Dec. 19, 2002, 116 Stat. 3086; Pub. L. 112-166, §2(gg)(2), Aug. 10, 2012, 126 Stat. 1290; Pub. L. 116-259, title III, §303, Dec. 23, 2020, 134 Stat. 1171.)

Editorial Notes

PRIOR PROVISIONS

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

AMENDMENTS

2020—Subsec. (c). Pub. L. 116-259, §303(1), substituted “The President shall designate one position” for “The Secretary shall designate one position under this section” in first sentence, and “The President shall fill that position by appointing, by and with the advice and consent of the Senate,” for “That position shall be filled by” in second sentence.

Subsec. (d)(2). Pub. L. 116-259, §303(2), inserted “or immediately beginning a period of terminal leave” after “for which a higher grade is designated”.

Subsec. (e). Pub. L. 116-259, §303(3), amended subsec. (e) generally. Prior to amendment, text read as follows:

“(1) OVERALL LIMIT.—The total number of officers serving on active duty at any one time in the grade of rear admiral (lower half) or above may not exceed four.

“(2) LIMIT BY GRADE.—The number of officers serving on active duty under appointments under this section may not exceed—

- “(A) one in the grade of vice admiral;
- “(B) two in the grade of rear admiral; and
- “(C) two in the grade of rear admiral (lower half).”

Subsec. (f). Pub. L. 116-259, §303(4), inserted “or in a period of annual leave used at the end of the appointment” after “serving in that grade”.

2012—Subsec. (d)(1). Pub. L. 112-166 struck out “, by and with the advice and consent of the Senate” before period at end.

Statutory Notes and Related Subsidiaries

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.

APPOINTMENT OF COMMISSIONED OFFICERS

Pub. L. 98-498, title III, §320(c)(2), Oct. 19, 1984, 98 Stat. 2309, provided that: “After the date of the enact-

ment of this Act [Oct. 19, 1984], no appointment of a commissioned officer may be made under section 2(d) or 2(f) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090, 5 U.S.C. App.).”

§ 3029. Temporary appointments

(a) Appointments by President

Temporary appointments in the grade of ensign, lieutenant junior grade, or lieutenant may be made by the President.

(b) Termination

A temporary appointment to a position under subsection (a) shall terminate upon approval of a permanent appointment for such position made by the President.

(c) Order of precedence

Appointees under subsection (a) shall take precedence in the grade to which appointed in accordance with the dates of their appointments as officers in such grade. The order of precedence of appointees who are appointed on the same date shall be determined by the Secretary.

(d) Any one grade

When determined by the Secretary to be in the best interest of the commissioned officer corps of the Administration, officers in any permanent grade may be temporarily promoted one grade by the President. Any such temporary promotion terminates upon the transfer of the officer to a new assignment.

(Pub. L. 107-372, title II, §229, Dec. 19, 2002, 116 Stat. 3087; Pub. L. 112-166, §2(gg)(3), Aug. 10, 2012, 126 Stat. 1290; Pub. L. 116-259, title III, §304(a), Dec. 23, 2020, 134 Stat. 1172.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853j-1 of this title prior to repeal by Pub. L. 107-372.

AMENDMENTS

2020—Pub. L. 116-259 substituted “Temporary appointments” for “Temporary appointments and promotions generally” in section catchline and amended text generally. Prior to amendment, text related to temporary appointments and promotions to certain grades.

2012—Pub. L. 112-166 struck out “alone” after “President” wherever appearing and, in subsec. (a), struck out “unless the Senate sooner gives its advice and consent to the appointment” before period at end of second sentence.

Statutory Notes and Related Subsidiaries

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.

Executive Documents

DELEGATION OF FUNCTIONS

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

§ 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.)

Editorial Notes

CODIFICATION

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

Executive Documents

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 re-

quired 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.)

Editorial Notes

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.)

Editorial Notes

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.)

Editorial Notes

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.

§ 3034. Officer candidates

(a) Determination of number

The Secretary shall determine the number of appointments of officer candidates.

(b) Appointment

Appointment of officer candidates shall be made under regulations, which the Secretary shall prescribe, including regulations with respect to determining age limits, methods of selection of officer candidates, term of service as an officer candidate before graduation from the basic officer training program of the Administration, and all other matters affecting such appointment.

(c) Dismissal

The Secretary may dismiss from the basic officer training program of the Administration any officer candidate who, during the officer candidate's term as an officer candidate, the Secretary considers unsatisfactory in either academics or conduct, or not adapted for a career in the commissioned officer corps of the Adminis-