

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-

tration. Officer candidates shall be subject to rules governing discipline prescribed by the Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

**(d) Agreement**

**(1) In general**

Each officer candidate shall sign an agreement with the Secretary in accordance with section 3006(a)(2) of this title regarding the officer candidate's term of service in the commissioned officer corps of the Administration.

**(2) Elements**

An agreement signed by an officer candidate under paragraph (1) shall provide that the officer candidate agrees to the following:

- (A) That the officer candidate will complete the course of instruction at the basic officer training program of the Administration.
- (B) That upon graduation from such program, the officer candidate—
  - (i) will accept an appointment, if tendered, as an officer; and
  - (ii) will serve on active duty for at least four years immediately after such appointment.

**(e) Regulations**

The Secretary shall prescribe regulations to carry out this section. Such regulations shall include—

- (1) standards for determining what constitutes a breach of an agreement signed under subsection (d)(1); and
- (2) procedures for determining whether such a breach has occurred.

**(f) Repayment**

An officer candidate or former officer candidate who does not fulfill the terms of the obligation to serve as specified under subsection (d) shall be subject to the repayment provisions of section 3006(b) of this title.

(Pub. L. 107-372, title II, §234, as added Pub. L. 116-259, title III, §305(a), Dec. 23, 2020, 134 Stat. 1172.)

**§ 3035. Procurement of personnel**

The Secretary may take such measures as the Secretary determines necessary in order to obtain recruits for the commissioned officer corps of the Administration, including advertising.

(Pub. L. 107-372, title II, §235, as added Pub. L. 116-259, title III, §306(a), Dec. 23, 2020, 134 Stat. 1174.)

**§ 3036. Career flexibility to enhance retention of officers**

**(a) Programs authorized**

The Secretary may carry out a program under which officers may be inactivated from active duty in order to meet personal or professional needs and returned to active duty at the end of such period of inactivation from active duty.

**(b) Period of inactivation from active duty; effect of inactivation**

**(1) In general**

The period of inactivation from active duty under a program under this section of an offi-

cer participating in the program shall be such period as the Secretary shall specify in the agreement of the officer under subsection (c), except that such period may not exceed three years.

**(2) Exclusion from retirement**

Any period of participation of an officer in a program under this section shall not count toward eligibility for retirement or computation of retired pay under subchapter III.

**(c) Agreement**

Each officer who participates in a program under this section shall enter into a written agreement with the Secretary under which that officer shall agree as follows:

- (1) To undergo during the period of the inactivation of the officer from active duty under the program such inactive duty training as the Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps shall require in order to ensure that the officer retains proficiency, at a level determined by the Director to be sufficient, in the technical skills, professional qualifications, and physical readiness of the officer during the inactivation of the officer from active duty.

- (2) Following completion of the period of the inactivation of the officer from active duty under the program, to serve two months on active duty for each month of the period of the inactivation of the officer from active duty under the program.

**(d) Conditions of release**

The Secretary shall—

- (1) prescribe regulations specifying the guidelines regarding the conditions of release that must be considered and addressed in the agreement required by subsection (c); and
- (2) at a minimum, prescribe the procedures and standards to be used to instruct an officer on the obligations to be assumed by the officer under paragraph (1) of such subsection while the officer is released from active duty.

**(e) Order to active duty**

Under regulations prescribed by the Secretary, an officer participating in a program under this section may, in the discretion of the Secretary, be required to terminate participation in the program and be ordered to active duty.

**(f) Pay and allowances**

**(1) Basic pay**

During each month of participation in a program under this section, an officer who participates in the program shall be paid basic pay in an amount equal to two-thirtieths of the amount of monthly basic pay to which the officer would otherwise be entitled under section 204 of title 37 as a member of the uniformed services on active duty in the grade and years of service of the officer when the officer commences participation in the program.

**(2) Special or incentive pay or bonus**

**(A) Prohibition**

An officer who participates in a program under this section shall not, while partici-