TITLE 14—COAST GUARD

This title was enacted by act Aug. 4, 1949, ch. 393, § 1, 63 Stat. 495

Part		Sec.
I.	**Regular Coast Guard**	**1**
II.	**Coast Guard Reserve and Auxiliary**	**701**

AMENDMENTS

1986—Pub. L. 99–640, § 10(a)(1), Nov. 10, 1986, 100 Stat. 3548, substituted ''701'' for ''751'' in item for part II.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 14

Title 14 Former Sections	*Title 14 New Sections*
1	1, 3, 4(a), (b)
2	467
2a	Elim.
3	3, 571
3a	481, 465, 488, 576
4	Rep.
5	41
5a–6	Rep.
6a	42
6b	47, 222, 462
6c	225
6d	224(c)
6e, 6f	433(a), (b)
7	4(c)
8	Rep.
9	41, 43
10	Rep.
10a	224(c), 226
10b–10f	Rep.
10g	432(a)
10h	432(b)
10i	Rep.
11	44, 45
11a	47, 48
12	47, 48
12a	Rep.
13	485(b)
14	Rep.
15	182, 183
15a	184
15a–1	182, 185
15b	187, 188
15c	187, 189
15d	186
15e	191
15f	190
15g	193
15h	194
15i	192
15j	Rep.
15k	476
16	223
16a, 16b	Rep.
16c	223
17	223
18	223, 224
19, 19a, 20	Rep.
20a	228, 461
20a–1	228
20a–2	301
20b	Rep.
20c	228
21	41, 225
21a	228, 301
21b	433(c)
22	632
23	352
24	Rep.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 14—Continued

Title 14 Former Sections	*Title 14 New Sections*
25	182
26	636
27	636
28	92(b), 144(a), 145(a)
29	88, 92(c), 93(b)
30	485(a)
31	144(b), 145(b)
31a	144(c)
31b	93(k)
31c	151
32, 33	(See former 131, 132)
34	632
34–1	T. 34 § 450b–1
34a	Rep.
35	351, 365, 367
35a	351, 367
35b	366
35c	367
35d	433(d)
36	651
37	651
38	Rep.
39	484
40, 40a	Rep.
41	505
41a	504
42	145(a)
43	(See former 127)
43a	641(a)
44	Rep.
45	89(a)
46	89(b)
47	89(c)
48	634(a)
48a	91
49	148
50	432(c)
50a	Rep. in part, elim. in part
50b	640
50c	643
50d	T. 37 § 31a.
50e	433(e).
50f–50j	T. 5 §§ 150p–150t
50k	90(a)
50*l*	90(b)
50m	81
50n	82
50*o*	81
51	89, 92(i)
52	89, 93(a)
53	88, 93(a)
54	93(c)
55	88, 93, (d)
56	Rep.
57	145(a)
58	632
59	Rep.
60	88
61	88(a)
62	88
63	88
64	638
65	Rep.
66	89
67	89
68	637
69	92(d), 93(h)
70	Rep.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 14—Continued

Title 14 Former Sections	*Title 14 New Sections*
71	646
72–74	Rep.
91	93(d), 632
92	633
93	92(c), 93(b)
94	92(c), 93(h)
95	92(a), 93(b)
96	92(f)
97	93(b), (c)
98	Rep.
98a	92(c), 93(b)
99	632
100–102	Rep.
103	632
104	88(a), 89(b)
105–107	Rep.
108	93(h), (i)
109	92(d), 93(h), (i)
110	93(m)
111	93(e)
112	93(b), (c)
121	461
121a–121c	Rep.
121d	433(h)
122–127	Rep.
127a	Elim.
128	Rep.
129	464
130, 130a	Elim.
131	92(i)
132	479
132a, 133	Rep.
133a	475
134	478(b)
135	478
136	Rep.
136a	466
137	Rep.
138	472
141	562
142	561
143	563, 564, 566, 567
144	569(a)
145	569(b)
146	570
147	575, 644
148	482
161	46
161a	49
162	49
162a	230, 232, 243, 303, 313, 423
162b	T. 34 § 428
163	Rep.
164, 165	240, 310
165a	241, 311
165b	240, 241, 310, 311
166	Rep.
167	423
167a	T. 37 § 26a
167b	Rep.
167b–1	Elim.
167b–2	483
167b–3	Elim.
167c	T. 34 § 399c–1
168	246, 315, 364
169	233, 241, 306, 311, 356
170	425, 635
171	234
172	233, 245, 306, 314, 356, 363
173	230, 303, 353
174	421(b)
174a	239, 309
175	231, 304, 354, 424
175a	238, 244
175b	235
175c	423
175d–175f	Rep.
176, 177	Rep.
178	431(a)
178a	431(b)
178b	431(c)
179	Rep.
180	432(d)
181	432(e)
182	433(f)

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 14—Continued

Title 14 Former Sections	*Title 14 New Sections*
183	433(g)
185	357(a)
185a	355
185b	358
185c	359, 360
185d	357(a), (c), 423
185e	633
186	755(e)
191	Rep.
192	93(m)
193–196	500
201	226
202	Rep.
203	226(a)
204	226(a), 227
205	Rep.
206	302, 351
207, 208	Rep.
251–259	Rep.
260	821
261	822
262	823
263	821
264	825
265	826
266	827
266a	828
266b	829
267	830
268	831
269	Rep.
270	832
271	893
301	751
302	752
303	754
304	751
305	753, 754
306	755
307	756
308	757
309	758
310	759
311	755(c)
312	760
313	761
314, 315	Rep.
351	753, 823
352	891, 892
353	Rep.
354	894
381–388	Rep.

POSITIVE LAW; CITATION

This title has been enacted into positive law by section 1 of act Aug. 4, 1949, ch. 393, 63 Stat. 495, which provided in part that: ''Title 14 of the United States Code, entitled 'Coast Guard', is hereby revised, codified, and enacted into law, and may be cited as '14 U.S.C., §—.' ''

EFFECTIVE DATE

Section 19 of act Aug. 4, 1949, ch. 393, 63 Stat. 561, provided that: ''This Act shall take effect on the first day of the third month after approval by the President but shall not affect any proceedings commenced by or against any person prior to the effective date of this Act.''

REPEALS

Section 20 of act Aug. 4, 1949, ch. 393, 63 Stat. 561, repealed the sections or parts of sections of the Revised Statutes or Statutes at Large covering provisions codified in this act, with a proviso that ''any rights or liabilities now existing under such sections or parts thereof shall not be affected by such repeal''.

LEGISLATIVE CONSTRUCTION

Section 3 of act Aug. 4, 1949, ch. 393, 63 Stat. 557, provided that: ''No inference of a legislative construction

is to be drawn by reason of the chapter in Title 14, Coast Guard, as set out in section 1 of this Act, in which any section is placed, nor by reason of the catch lines used in such title.''

SEPARABILITY

Section 2 of act Aug. 4, 1949, ch. 393, 63 Stat. 557, provided that: ''If any part of Title 14, United States Code, as enacted by section 1 of this Act, shall be held invalid the remainder of such title shall not be affected thereby.''

ORDERS, RULES, AND REGULATIONS

Section 4 of act Aug. 4, 1949, ch. 393, 63 Stat. 558, provided that: ''All orders, rules, and regulations of the Coast Guard in effect under provisions of law superseded or amended by this Act shall, to the extent they would have been authorized under this Act, remain in force and effect as the regulations and orders under the provisions of this Act and shall be administered and enforced under this Act as nearly as may be until specifically repealed, amended, or revised.''

REDUCTION IN GRADE, RANK, PAY, ALLOWANCES, AND BENEFITS

Section 5 of act Aug. 4, 1949, ch. 393, 63 Stat. 558, provided that: ''Nothing contained in this Act shall operate to abolish or reduce the grade, rank, rating, pay, allowances, or other benefits to which any person in the Coast Guard is entitled on the effective date of this Act.''

PART I—REGULAR COAST GUARD

Chap.		Sec.
1.	**Establishment and Duties**	**1**
3.	**Composition and Organization**	**41**
5.	**Functions and Powers**	**81**
7.	**Cooperation With Other Agencies**	**141**
9.	**Coast Guard Academy**	**181**
11.	**Personnel**	**211**
13.	**Pay, Allowances, Awards, and Other Rights and Benefits**	**461**
[15.	**Repealed.]**	
17.	**Administration**	**631**
18.	**Coast Guard Housing Authorities**	**680**
19.	**Coast Guard Environmental Compliance and Restoration Program[1]**	**690**

AMENDMENTS

1996—Pub. L. 104–324, title II, §208(c), Oct. 19, 1996, 110 Stat. 3913, added item for chapter 18.

1989—Pub. L. 101–225, title II, §222(b), Dec. 12, 1989, 103 Stat. 1918, added item for chapter 19.

1950—Act May 5, 1950, ch. 169, §§5, 14(v), 64 Stat. 148, repealed item for chapter 15 ''Discipline and Related Matters———561'', effective May 31, 1951.

CHAPTER 1—ESTABLISHMENT AND DUTIES

Sec.
1. Establishment of Coast Guard.
2. Primary duties.
3. Relationship to Navy Department.
4. Operation as a service in the Navy.
5. ''Secretary'' defined.

§1. Establishment of Coast Guard

The Coast Guard as established January 28, 1915, shall be a military service and a branch of the armed forces of the United States at all times. The Coast Guard shall be a service in the Department of Homeland Security, except when operating as a service in the Navy.

(Aug. 4, 1949, ch. 393, 63 Stat. 496; Pub. L. 94–546, §1(1), Oct. 18, 1976, 90 Stat. 2519; Pub. L. 107–296, title XVII, §1704(a), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §1 (Jan. 28, 1915, ch. 20, §1, 38 Stat. 800; July 11, 1941, ch. 290, §§5, 6(a), 55 Stat. 585).

Said section has been divided. Provisions relating to operation under the Navy in time of war are placed in sections 3 and 4 of this title, and the remainder is in this section.

This section continues the Coast Guard as a military service and branch of the armed forces of the United States at all times. By the act of July 11, 1941, 55 Stat. 585 (title 14, U.S.C., 1946 ed., §1), the Coast Guard was constituted a branch of the land and naval forces of the United States at all times. This section therefore merely continues an existing agency and codifies existing law on the military status of the Coast Guard, substituting ''armed forces'' for ''land and naval forces'' because of the recent establishment of the Department of the Air Force as an ''armed force'' rather than as a part of the ''land and naval forces''. The Coast Guard is designated a service in the Treasury Department except when operating as a service in the Navy. This is a better definition of the status of the Coast Guard than one which defines it as a service under the Treasury Department in time of peace, because the President is authorized to place the Coast Guard under the Navy in time of emergency, which could be in time of peace.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

2002—Pub. L. 107–296 substituted ''Department of Homeland Security'' for ''Department of Transportation''.

1976—Pub. L. 94–546 substituted ''Department of Transportation'' for ''Treasury Department''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–241, §1, July 11, 2006, 120 Stat. 516, provided that: ''This Act [see Tables for classification] may be cited as the 'Coast Guard and Maritime Transportation Act of 2006'.''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–293, §1, Aug. 9, 2004, 118 Stat. 1028, provided that: ''This Act [see Tables for classification] may be referred to as the 'Coast Guard and Maritime Transportation Act of 2004'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–295, title III, §301, Nov. 25, 2002, 116 Stat. 2102, provided that: ''This title [amending sections 259, 260, 271, 336, and 511 of this title, sections 1203, 1231a, 2073, 2302, and 2752 of Title 33, Navigation and Navigable Waters, and sections 2110, 2302, 4508, 7302, 8701, and 13110 of Title 46, Shipping, and enacting provisions set out as notes under sections 88 and 92 of this title and section 1113 of Title 33] may be cited as the 'Coast Guard Personnel and Maritime Safety Act of 2002'.''

Pub. L. 107–295, title IV, §401, Nov. 25, 2002, 116 Stat. 2113, provided that: ''This title [see Tables for classification] may be cited as the 'Omnibus Maritime and Coast Guard Improvements Act of 2002'.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities

[1] So in original. Does not conform to chapter heading.

and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Coast Guard transferred to Department of Transportation and all functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other offices and officers of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89–670, § 6(b)(1), Oct. 15, 1966, 80 Stat. 931. Section 6(b)(2) of Pub. L. 89–670, however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in section 3 of this title. See section 108 of Title 49, Transportation.

§ 2. Primary duties

The Coast Guard shall enforce or assist in the enforcement of all applicable Federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States; shall engage in maritime air surveillance or interdiction to enforce or assist in the enforcement of the laws of the United States; shall administer laws and promulgate and enforce regulations for the promotion of safety of life and property on and under the high seas and waters subject to the jurisdiction of the United States covering all matters not specifically delegated by law to some other executive department; shall develop, establish, maintain, and operate, with due regard to the requirements of national defense, aids to maritime navigation, ice-breaking facilities, and rescue facilities for the promotion of safety on, under, and over the high seas and waters subject to the jurisdiction of the United States; shall, pursuant to international agreements, develop, establish, maintain, and operate icebreaking facilities on, under, and over waters other than the high seas and waters subject to the jurisdiction of the United States; shall engage in oceanographic research of the high seas and in waters subject to the jurisdiction of the United States; and shall maintain a state of readiness to function as a specialized service in the Navy in time of war, including the fulfillment of Maritime Defense Zone command responsibilities..[1]

(Aug. 4, 1949, ch. 393, 63 Stat. 496; Pub. L. 87–396, § 1, Oct. 5, 1961, 75 Stat. 827; Pub. L. 91–278, § 1(1), June 12, 1970, 84 Stat. 304; Pub. L. 93–519, Dec. 13, 1974, 88 Stat. 1659; Pub. L. 99–640, § 6, Nov. 10, 1986, 100 Stat. 3547; Pub. L. 100–448, § 17, Sept. 28, 1988, 102 Stat. 1845; Pub. L. 100–690, title VII, § 7403, Nov. 18, 1988, 102 Stat. 4484.)

Historical and Revision Notes

This section defines in general terms, for the first time in any statute, all the primary duties of the Coast Guard. It is derived from title 14, U.S.C., 1946 ed., §§ 45, 50k–50*o*, 51, 52, 53, 55, 60, 61, 62, 63, 98a, 104, 261, 301, title 33, U.S.C., 1946 ed., §§ 720, 720a, 740, 740a, 740b, title 46, U.S.C., 1946 ed., §§ 1 (footnote), 2 (R.S. 1536, 2747, 2758, 2759, 4249; June 23, 1874, ch. 455, § 1, 18 Stat. 220; June 18, 1878, ch. 265, § 4, 20 Stat. 163; July 5, 1884, ch. 221, § 2, 23 Stat. 118; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; Apr. 19, 1906, ch. 1640, §§ 1–3, 34 Stat. 123; May 12, 1906, ch. 2454, 34 Stat. 190; June 17, 1910, ch. 301, §§ 6, 7, 36 Stat. 538; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 24, 1914, ch. 124, 38 Stat. 387; Mar. 3, 1915, ch. 81, § 5, 38 Stat. 927; Aug. 29, 1916, ch. 417, 39 Stat. 1820; May 22, 1926, ch. 371, § 6, 44 Stat. 626; June 30, 1932, ch. 314, § 501, 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; Aug. 16, 1937, ch. 665, § 3, 50 Stat. 667; Feb. 19, 1941, ch. 8, §§ 2, 201, 55 Stat. 9, 11; July 11, 1941, ch. 290, § 7, 55 Stat. 585; Nov. 23, 1942, ch. 639, § 2(2), 56 Stat. 102; Sept. 30, 1944, ch. 453, § 1, 58 Stat. 759; June 22, 1948, ch. 600, 62 Stat. 574; June 26, 1948, ch. 672, 62 Stat. 1050).

This section contains a codification of functions. It sets forth in general language the primary responsibilities of the Coast Guard: enforcement of all Federal laws on waters to which they have application, safety of life and property at sea, aiding navigation, and readiness to function with the Navy. Having been created in 1915 by the consolidation of the Revenue Cutter Service and the Life Saving Service, the Coast Guard has gradually been given additional duties and responsibilities, such as the assignment of law enforcement powers on the high seas and navigable waters in 1936, the transfer of the Lighthouse Service in 1939, and the transfer of the Bureau of Marine Inspection and Navigation in 1942. Existing along with these other duties has been that of maintaining a state of readiness as a specialized service prepared for active participation with the Navy in time of war. These various interdependent functions of the Service have not been expressed collectively in any statute heretofore, but it is believed desirable to do so in this revision in order to have outlined in general terms in one section the broad scope of the functions of the Coast Guard. 81st Congress, House Report No. 557.

Amendments

1988—Pub. L. 100–690 substituted ''United States; shall engage in maritime air surveillance or interdiction to enforce or assist in the enforcement of the laws of the United States; shall administer'' for first reference to ''United States;''.

Pub. L. 100–448 substituted ''Federal laws on, under, and over'' for ''Federal laws on and under''.

1986—Pub. L. 99–640 inserted '', including the fulfillment of Maritime Defense Zone command responsibilities.''

1974—Pub. L. 93–519 inserted provision requiring Coast Guard to develop, establish, maintain and operate, pursuant to international agreements, icebreaking facilities in waters other than those subject to the jurisdiction of the United States.

1970—Pub. L. 91–278 improved and clarified text, substituting ''on and under'' for ''upon'' in clause preceding first semicolon; inserting ''and under'' after ''life and property on'' and striking out ''on'' after ''the high seas and'' in clause preceding second semicolon; and substituting ''icebreaking'' for ''ice-breaking'' and inserting '', under,'' after ''promotion of safety on'' in clause preceding third semicolon, respectively.

1961—Pub. L. 87–396 required Coast Guard to engage in oceanographic research on high seas and in waters subject to jurisdiction of the United States.

Transfer of Functions

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Annual Report on Coast Guard Capabilities and Readiness to Fulfill National Defense Responsibilities

Pub. L. 107–295, title IV, § 426, Nov. 25, 2002, 116 Stat. 2126, provided that: ''Not later than February 15 each year, the Secretary of the department in which the

[1] So in original.

Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, prepared in conjunction with the Commandant of the Coast Guard, setting forth the capabilities and readiness of the Coast Guard to fulfill its national defense responsibilities.''

§ 3. Relationship to Navy Department

Upon the declaration of war if Congress so directs in the declaration or when the President directs, the Coast Guard shall operate as a service in the Navy, and shall so continue until the President, by Executive order, transfers the Coast Guard back to the Department of Homeland Security. While operating as a service in the Navy, the Coast Guard shall be subject to the orders of the Secretary of the Navy who may order changes in Coast Guard operations to render them uniform, to the extent he deems advisable, with Navy operations.

(Aug. 4, 1949, ch. 393, 63 Stat. 496; Pub. L. 94–546, § 1(2), Oct. 18, 1976, 90 Stat. 2519; Pub. L. 107–296, title XVII, § 1704(a), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109–241, title II, § 211, July 11, 2006, 120 Stat. 523.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 1 (Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; July 11, 1941, ch. 290, §§ 5, 6(a), 55 Stat. 585).

Said section has been divided. The provisions relating to when the Coast Guard operates as a service in the Navy are in this section. The provisions relating to the establishment of the Coast Guard are placed in section 1 of this title. The provisions relating to appropriations are placed in section 4 of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

2006—Pub. L. 109–241 inserted ''if Congress so directs in the declaration'' after ''Upon the declaration of war''.

2002—Pub. L. 107–296 substituted ''Department of Homeland Security'' for ''Department of Transportation''.

1976—Pub. L. 94–546 substituted ''Executive'' for ''executive'' and ''Department of Transportation'' for ''Treasury Department''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

§ 4. Operation as a service in the Navy

Whenever the Coast Guard operates as a service in the Navy:

(a) applicable appropriations of the Navy Department shall be available for the expense of the Coast Guard;

(b) applicable appropriations of the Coast Guard shall be available for transfer to the Navy Department;

(c) precedence between commissioned officers of corresponding grades in the Coast Guard and the Navy shall be determined by the date of rank stated by their commissions in those grades;

(d) personnel of the Coast Guard shall be eligible to receive gratuities, medals, and other insignia of honor on the same basis as personnel in the naval service or serving in any capacity with the Navy; and

(e) the Secretary may place on furlough any officer of the Coast Guard and officers on furlough shall receive one half of the pay to which they would be entitled if on leave of absence, but officers of the Coast Guard Reserve shall not be so placed on furlough.

(Aug. 4, 1949, ch. 393, 63 Stat. 497; May 5, 1950, ch. 169, § 14(u), 64 Stat. 148; Pub. L. 89–444, § 1(1), June 9, 1966, 80 Stat. 195.)

HISTORICAL AND REVISION NOTES

Subsections (a) and (b) are based on title 14, U.S.C., 1946 ed., § 1 (Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; July 11, 1941, ch. 290, §§ 5, 6(a), 55 Stat. 585).

Said section has been divided. The provisions relating to appropriations are in this section. The provisions relating to establishment of the Coast Guard are placed in section 1 of this title. The provisions relating to when the Coast Guard operates as a service in the Navy are placed in section 3 of this title.

The substantive changes relating to the availability of appropriations when the Coast Guard is transferred to the Navy were suggested by the Bureau of the Budget (July 11, 1941, ch. 290, § 6 (a), 55 Stat. 585).

Subsection (c) is based on title 14, U.S.C., 1946 ed., § 7 (Aug. 29, 1916, ch. 417, 39 Stat. 600).

Subsection (d) is derived from title 34, U.S.C., 1946 ed., §§ 355 to 356b (Feb. 4, 1919, ch. 14, §§ 2–5, 40 Stat. 1056; Aug. 7, 1942, ch. 551, § 1, 56 Stat. 743).

Said sections authorized medals for presentation ''. . . to any person who, while serving in any capacity with the Navy of the United States . . .''; inasmuch as this language includes the Coast Guard when it is operating under the Navy, this subsection entails no change in existing law.

Subsection (e) is based on title 34, U.S.C., 1946 ed., § 228 (R.S. 1442; Feb. 28, 1942, ch. 11, 59 Stat. 9).

Inasmuch as R.S. 1442 cited above applies to the Navy and Marine Corps as well as the Coast Guard it is not scheduled for repeal but is being amended by section 6 of this act to eliminate reference to the Coast Guard.

Subsection (f) is based on title 14, U.S.C., 1946 ed., § 3 (Aug. 29, 1916, ch. 417, 39 Stat. 600).

Said section has been divided. The provisions concerning applicability of Navy laws to Coast Guard personnel are placed in this section. The provisions of the provisos of title 14, U.S.C., 1946 ed., § 3 are placed in section 571 of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1966—Pub. L. 89–444 made technical changes in subsecs. (d) and (e) by inserting ''and'' at end of subsec. (d) and substituting a period for ''; and'' at end of subsec. (e).

1950—Act May 5, 1950, repealed subsec. (f) which provided that personnel of the Coast Guard should be subject to the laws for the government of the Navy.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 5 of act May 5, 1950, provided that the amendment made by that section is effective May 31, 1951.

§ 5. "Secretary" defined

As used in this title, the term ''Secretary'' means the Secretary of the respective department in which the Coast Guard is operating.

(Aug. 4, 1949, ch. 393, 63 Stat. 497.)

HISTORICAL AND REVISION NOTES

This section is definitive and is included to obviate the necessity of spelling out in detail in each section of

the bill where the Secretary is referred to, ''the Secretary of the Treasury when the Coast Guard is operating in the Treasury Department and the Secretary of the Navy when the Coast Guard is operating as a service in the Navy.'' 81st Congress, House Report No. 557.

CHAPTER 3—COMPOSITION AND ORGANIZATION

Sec.
41. Grades and ratings.
41a. Active duty promotion list.
42. Number and distribution of commissioned officers.
[43. Repealed.]
44. Commandant; appointment.
[45. Repealed.]
46. Retirement of Commandant.
47. Vice Commandant; assignment.
[48, 49. Repealed.]
50. Area commanders.
50a. Chief of Staff.
51. Retirement.
52. Vice admirals, continuity of grade.
53. Office of the Coast Guard Reserve; Director.
54. Chief of Staff to President: appointment.

AMENDMENTS

2006—Pub. L. 109–163, div. A, title V, § 597(b), Jan. 6, 2006, 119 Stat. 3283, added item 54.

1999—Pub. L. 106–65, div. A, title V, § 557(b), Oct. 5, 1999, 113 Stat. 620, added item 53.

1993—Pub. L. 103–206, title II, §§ 204(b)(2), 205(b)(2), Dec. 20, 1993, 107 Stat. 2421, 2422, struck out ''; retirement'' after ''assignment'' in item 47 and added item 50a.

1982—Pub. L. 97–322, title I, § 115(a)(2), Oct. 15, 1982, 96 Stat. 1585, added item 52.

1972—Pub. L. 92–451, § 1(8), Oct. 2, 1972, 86 Stat. 756, substituted ''Vice Commandant'' for ''Assistant Commandant'' in item 47 and added items 50 and 51.

1963—Pub. L. 88–130, § 1(7), Sept. 24, 1963, 77 Stat. 175, added item 41a and struck out item 43.

1960—Pub. L. 86–474, § 1(8), May 14, 1960, 74 Stat. 145, substituted ''Assistant Commandant; assignment; retirement'' for ''Assistant Commandant and Engineer in Chief; appointment'' in item 47 and struck out items 45, 48, and 49.

§ 41. Grades and ratings

In the Coast Guard there shall be an admiral, vice admirals; rear admirals; rear admirals (lower half); captains; commanders; lieutenant commanders; lieutenants; lieutenants (junior grade); ensigns; chief warrant officers; cadets; warrant officers; and enlisted members. Enlisted members shall be distributed in ratings established by the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 497; Aug. 10, 1956, ch. 1041, §§ 6, 53, 70A Stat. 620, 679; Pub. L. 86–474, § 1(1), May 14, 1960, 74 Stat. 144; Pub. L. 92–451, § 1(1), Oct. 2, 1972, 86 Stat. 755; Pub. L. 97–417, § 2(1), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 98–557, § 15(a)(3)(B), (C), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99–145, title V, § 514(a)(2), Nov. 8, 1985, 99 Stat. 628; Pub. L. 103–337, div. A, title V, § 541(f)(4), Oct. 5, 1994, 108 Stat. 2766.)

HISTORICAL AND REVISION NOTES

1949 ACT

Based on title 14, U.S.C., 1946 ed., §§ 5, 9, 21 (Apr. 12, 1902, ch. 501, § 1, 32 Stat. 100; Jan. 28, 1915, ch. 20, § 2, 38 Stat. 801; May 18, 1920, ch. 190, § 8, 41 Stat. 603; June 5, 1920, ch. 235, § 1, 41 Stat. 879; Jan. 12, 1923, ch. 25, §§ 1, 2, 42 Stat. 1130; July 3, 1926, ch. 742, §§ 3, 9, 10, 44 Stat. 815, 817).

The grades of vice admiral and rear admiral are added to make provision for the commissioned officer personnel structure of the service as provided for in this revision. The entire rating structure for enlisted men is left to the administrative discretion of the Secretary, as in the past, for reasons of flexibility.

The last two paragraphs of said section 5 are obsolete and have been omitted.

Changes were made in phraseology. 81st Congress, House Report No. 557.

1956 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
41	14:41. 34:135a(a) (less last sentence, as applicable to temporary appointments).	Aug. 4, 1949, ch. 393, § 1(41), 63 Stat. 497. May 29, 1954, ch. 249, § 3(a) (less 3d and last sentences, as applicable to temporary appointments), 68 Stat. 157.

AMENDMENTS

1994—Pub. L. 103–337 substituted ''chief warrant officers; cadets; warrant officers;'' for ''chief warrant officers, W–4; chief warrant officers, W–3; chief warrant officers, W–2; cadets; warrant officers, W–1;''.

1985—Pub. L. 99–145 substituted ''rear admirals (lower half)'' for ''commodores''.

1984—Pub. L. 98–557 substituted ''members'' for ''men'' in two places.

1983—Pub. L. 97–417 inserted ''commodores;'' after ''rear admirals;''.

1972—Pub. L. 92–451 substituted ''vice admirals'' for ''a vice admiral''.

1960—Pub. L. 86–474 inserted the grade of admiral.

1956—Act Aug. 10, 1956, repealed and reenacted section by general amendment thereby substituting ''chief warrant officers, W–4; chief warrant officers, W–3; chief warrant officers, W–2'' for ''commissioned warrant officers'', and ''warrant officers, W–1'' for ''warrant officers''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103–337, set out as a note under section 571 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–451 effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92–451, set out as a note under section 290 of this title.

§ 41a. Active duty promotion list

(a) The Secretary shall maintain a single active duty promotion list of officers of the Coast Guard on active duty in the grades of ensign and above. Reserve officers on active duty, other than pursuant to an active duty agreement executed under section 12311 of title 10, retired officers, and officers of the permanent commissioned teaching staff of the Coast Guard Academy shall not be included on the active duty promotion list.

(b) Officers shall be carried on the active duty promotion list in the order of seniority of the grades in which they are serving. Officers serving in the same grade shall be carried in the order of their seniority in that grade. The Secretary may correct any erroneous position on the active duty promotion list that was caused by administrative error.

(c) A person appointed in the grade of ensign or above in the Regular Coast Guard shall be placed on the active duty promotion list in the order of his date of rank and seniority.

(d) A Reserve officer, other than one excluded by subsection (a), shall, when he enters on active duty, be placed on the active duty promotion list in accordance with his grade and seniority. The position of such a Reserve officer among other officers of the Coast Guard on active duty who have the same date of rank shall be determined by the Secretary.

(Added Pub. L. 88–130, §1(1), Sept. 24, 1963, 77 Stat. 174; amended Pub. L. 91–278, §1(2), June 12, 1970, 84 Stat. 304; Pub. L. 93–174, §1(1), Dec. 5, 1973, 87 Stat. 692; Pub. L. 97–136, §6(a), Dec. 29, 1981, 95 Stat. 1706; Pub. L. 103–206, title II, §205(a), Dec. 20, 1993, 107 Stat. 2422; Pub. L. 103–337, div. A, title XVI, §1677(b)(1), Oct. 5, 1994, 108 Stat. 3019.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–337 substituted ''section 12311 of title 10'' for ''section 679 of title 10''.

1993—Subsec. (b). Pub. L. 103–206 struck out before period at end of second sentence '', except that the rear admiral serving as Chief of Staff shall be the senior rear admiral for all purposes other than pay''.

1981—Subsec. (a). Pub. L. 97–136, §6(a)(1), substituted ''Reserve officers on active duty, other than pursuant to an active duty agreement executed under section 679 of title 10, retired officers, and officers of the permanent commissioned teaching staff of the Coast Guard Academy shall not'' for ''Retired officers and officers of the permanent commissioned teaching staff of the Coast Guard Academy shall not be included on the active duty promotion list. Reserve officers on extended active duty, other than those serving in connection with organizing, administering, recruiting, instructing, or training the Reserve components or assigned to the Selective Service System, shall''.

Subsec. (b). Pub. L. 97–136, §6(a)(2), inserted exception that rear admiral serving as Chief of Staff shall be senior rear admiral for all purposes other than pay.

Subsec. (d). Pub. L. 97–136, §6(a)(3), substituted ''enters on active duty'' for ''enters on extended active duty''.

1973—Subsec. (a). Pub. L. 93–174 substituted ''Retired officers and officers'' for ''Retired officers, officers'' and struck out '', and officers of the Women's Reserve'' after ''Coast Guard Academy''.

1970—Subsec. (a). Pub. L. 91–278 inserted ''or assigned to the Selective Service System'' after ''components'' in last sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

§42. Number and distribution of commissioned officers

(a) The total number of commissioned officers, excluding commissioned warrant officers, on active duty in the Coast Guard shall not exceed 6,700 in each fiscal year 2004, 2005, and 2006.

(b) The commissioned officers on the active duty promotion list shall be distributed in grade in the following percentages, respectively: rear admiral 0.375; rear admiral (lower half) 0.375; captain 6.0; commander 15.0; lieutenant commander 22.0. The Secretary shall prescribe the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign. The Secretary may, as the needs of the Coast Guard require, reduce the percentage applicable to any grade above lieutenant commander, and in order to compensate for such reduction increase correspondingly the percentage applicable to any lower grade.

(c) The Secretary shall, at least once each year, make a computation to determine the number of officers on the active duty promotion list authorized to be serving in each grade. The number in each grade shall be computed by applying the applicable percentage to the total number of such officers serving on active duty on the date the computation is made. In making computations under this section the nearest whole number shall be regarded as the authorized number in any case where there is a fraction in the final result.

(d) The numbers resulting from such computations shall be for all purposes the authorized number in each grade, except that the authorized number for a grade is temporarily increased during the period between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.

(e) Officers who are not included on the active duty promotion list, officers serving as extra numbers in grade under sections 432 and 433[1] of this title, and officers serving with other departments or agencies on a reimbursable basis or excluded under the provisions of section 324(d) of title 49, shall not be counted in determining authorized strengths under subsection (c) and shall not count against those strengths. The number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy and of the Reserve serving in connection with organizing, administering, recruiting, instructing, or training the reserve components shall be prescribed by the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 497; July 20, 1956, ch. 647, §2, 70 Stat. 588; Pub. L. 86–474, §1(2), May 14, 1960, 74 Stat. 144; Pub. L. 88–130, §1(2), Sept. 24, 1963, 77 Stat. 174; Pub. L. 89–444, §1(2), June 9, 1966, 80 Stat. 195; Pub. L. 90–385, July 5, 1968, 82 Stat. 293; Pub. L. 92–451, §1(2), Oct. 2, 1972, 86 Stat. 755; Pub. L. 93–174, §1(2), Dec. 5, 1973, 87 Stat. 692; Pub. L. 96–23, §4, June 13, 1979, 93 Stat. 68; Pub. L. 97–417, §2(2), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 97–449, §5(b), Jan. 12, 1983, 96 Stat. 2442; Pub. L. 98–557, §25(a)(1), Oct. 30, 1984, 98 Stat. 2872; Pub. L. 99–145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 103–206, title II, §201, Dec. 20, 1993, 107 Stat. 2420; Pub. L. 108–293, title II, §214, Aug. 9, 2004, 118 Stat. 1037.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §6a (July 23, 1947, ch. 301, §1, 61 Stat. 409).

The only change is in phraseology in the second sentence, it being necessary to include the extra numbers authorized by the act of July 23, 1947, in the figure given as the present number of extra numbers in the Coast Guard. 81st Congress, House Report No. 557.

REFERENCES IN TEXT

Section 433 of this title, referred to in subsec. (e), was repealed by Pub. L. 99–640, §10(a)(6)(A), Nov. 10, 1986, 100 Stat. 3549.

[1] See References in Text note below.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–293, § 214(1), substituted ''6,700 in each fiscal year 2004, 2005, and 2006'' for ''6,200''.

Subsec. (b). Pub. L. 108–293, § 214(2), substituted ''commander 15.0; lieutenant commander 22.0'' for ''commander 12.0; lieutenant commander 18.0''.

1993—Subsec. (a). Pub. L. 103–206 substituted ''6,200'' for ''6,000''.

1985—Subsec. (b). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore''.

1984—Subsec. (b). Pub. L. 98–557 substituted ''0.375'' for ''.375'' in two places.

1983—Subsec. (b). Pub. L. 97–417 substituted ''.375; commodore .375;'' for ''0.75;'' after ''rear admiral''.

Subsec. (e). Pub. L. 97–449 substituted ''section 324(d) of title 49'' for ''section 9(d)(1) of the Department of Transportation Act (80 Stat. 944; 49 U.S.C. 1657)''.

1979—Subsec. (a). Pub. L. 96–23 substituted ''6,000'' for ''five thousand''.

1973—Subsec. (e). Pub. L. 93–174 substituted ''Coast Guard Academy and of the'' for ''Coast Guard Academy, of the'' and struck out '', and of the Women's Reserve'' after ''training and reserve components''.

1972—Subsec. (e). Pub. L. 92–451 inserted provision that officers excluded under section 1657(d)(1) of Title 49 shall not be counted in determining authorized strengths.

1968—Subsec. (a). Pub. L. 90–385 substituted ''five thousand'' for ''four thousand''.

1966—Subsec. (a). Pub. L. 89–444 substituted ''four thousand'' for ''three thousand five hundred''.

1963—Pub. L. 88–130 specified percentage of distribution of commissioned officers from rear admiral to lieutenant commander, authorized Secretary to prescribe percentages for lieutenant, lieutenant (junior grade), and ensign, required number in each grade to be computed by applying the applicable percentage to the total number of officers serving on active duty on the date the computation is made, provided that officers not on the active duty promotion list, officers serving as extra numbers in grade, and officers serving with other departments or agencies on a reimbursable basis shall not be counted in determining authorized strengths and that the number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy, of the Reserve, and of the Women's Reserve shall be prescribed by the Secretary, and struck out provisions which included in the number of commissioned officers the extra numbers in grade which increase the authorized number of line officers upon separation or retirement of the person holding such number, and the members of the permanent commissioned teaching staff of the Coast Guard Academy, distributed commissioned officers in grades in the same percentages as prescribed for the Navy, determined authorized number of officers in the various grades by the actual number on active duty, including permanent, temporary, and reserve officers, but not including extra numbers in the Coast Guard at the date of making the computation, and which provided that no officer be reduced in permanent grade or pay or removed from the active list as a result of any computation of the number of officers in grade.

1960—Pub. L. 86–474 substituted ''three thousand five hundred'' for ''three thousand''.

1956—Act July 20, 1956, substituted ''three thousand'' for ''two thousand two hundred and fifty'' and inserted ''except that the authorized number for a grade is temporarily increased during the period between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason''.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–451 effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92–451, set out as a note under section 290 of this title.

[§ 43. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 498, provided for relative rank of commissioned officers with respect to Army and Navy officers. See section 741 of Title 10, Armed Forces.

§ 44. Commandant; appointment

The President may appoint, by and with the advice and consent of the Senate, one Commandant for a period of four years, who may be reappointed for further periods of four years, who shall act as Chief of the Coast Guard. The Commandant shall be appointed from the officers on the active duty promotion list serving above the grade of captain who have completed at least ten years of active service as a commissioned officer in the Coast Guard. The Commandant while so serving shall have the grade of admiral.

(Aug. 4, 1949, ch. 393, 63 Stat. 498; Pub. L. 86–474, § 1(3), May 14, 1960, 74 Stat. 144; Pub. L. 88–130, § 1(3), Sept. 24, 1963, 77 Stat. 175; Pub. L. 89–444, § 1(3), June 9, 1966, 80 Stat. 195; Pub. L. 92–451, § 1(3), Oct. 2, 1972, 86 Stat. 755.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 11 (Apr. 16, 1908, ch. 145, §§ 1, 2, 35 Stat. 61; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; Jan. 12, 1923, ch. 25, § 2, 42 Stat. 1130; Apr. 23, 1930, ch. 211, 46 Stat. 253; June 9, 1937, ch. 309, § 1, 50 Stat. 252; June 6, 1940, ch. 257, § 1(a), 54 Stat. 246).

Said section has been divided. The provisions of the first proviso are placed in section 45 of this title, and the remainder is placed in this section.

The grade of the Commandant is fixed as vice admiral rather than that prescribed for Bureau Chiefs of the Navy. The additional qualifications that an officer appointed Commandant must have at least 10 years commissioned service in the Coast Guard has been inserted. 81st Congress, House Report No. 557.

AMENDMENTS

1972—Pub. L. 92–451 substituted ''above the grade of captain'' for ''in the grade of captain or above'' in second sentence.

1966—Pub. L. 89–444 struck out provision that the position of an officer appointed Commandant be filled by promotion according to law.

1963—Pub. L. 88–130 substituted ''officers on the active duty promotion list serving in the grade of'' for ''active list of officers who hold a permanent commission as'', required qualifying period of 10 years commissioned service to be ''active'' service, and struck out '', pay, and allowances'' before ''of admiral''.

1960—Pub. L. 86–474 substituted ''active list of officers'' for ''active list of line officers'', ''captain or above'' for ''commander or above'', and ''allowances of admiral'' for ''allowances of vice admiral''.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–451 effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92–451, set out as a note under section 290 of this title.

EFFECTIVE DATE OF HIGHER GRADE AND INCREASED PAY AND ALLOWANCES

Section 2 of Pub. L. 86–474 provided that: ''The increased grade of admiral for the Commandant and vice admiral for the Assistant Commandant [now Vice Commandant], including the pay and allowances applicable

to such grades, shall be effective on the first day of the month following enactment of this Act [May 14, 1960].''

SAVINGS PROVISION

Section 3 of Pub. L. 86–474 provided that: ''Except as provided by section 2 [set out as a note under this section], the amendments by section 1 [amending sections 41, 42, 44, 46, 47, 186 to 191, 222, 247(c), 365, and 462 of this title, and repealing sections 45, 48, and 49 of this title] shall not operate to change or deprive the present incumbents serving as Commandant, Assistant Commandant [now Vice Commandant], and Engineer in Chief of any rights, benefits and privileges appertaining to such offices on the day preceding the date of enactment of this Act [May 14, 1960], nor to divest them of their offices for the terms appointed.''

[§ 45. Repealed. Pub. L. 86–474, § 1(4), May 14, 1960, 74 Stat. 144]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 498, related to permanent grade of Commandant on expiration of term.

§ 46. Retirement of Commandant

(a) A Commandant who is not reappointed shall be retired with the grade of admiral at the expiration of the appointed term, except as provided in subsection[1] 51(d) of this title.

(b) A Commandant who is retired for physical disability shall be placed on the retired list with the grade of admiral.

(c) An officer who is retired prior to the expiration of his term, while serving as Commandant, may, in the discretion of the President, be retired with the grade of admiral.

(Aug. 4, 1949, ch. 393, 63 Stat. 499; Pub. L. 86–474, § 1(5), May 14, 1960, 74 Stat. 144; Pub. L. 88–130, § 1(4), Sept. 24, 1963, 77 Stat. 175; Pub. L. 89–444, § 1(4), (5), June 9, 1966, 80 Stat. 195; Pub. L. 97–295, § 2(1), Oct. 12, 1982, 96 Stat. 1301; Pub. L. 99–348, title II, § 205(b)(1), July 1, 1986, 100 Stat. 699; Pub. L. 103–206, title II, § 204(a), Dec. 20, 1993, 107 Stat. 2421.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 161 (Jan. 12, 1923, ch. 25, § 2, 42 Stat. 1130; June 25, 1936, ch. 808, 49 Stat. 1924; June 9, 1937, ch. 309, § 1, 50 Stat. 252; June 6, 1940, ch. 257, § 1(a), 54 Stat. 246).

Provision is added for retirement of the Commandant with the grade and pay of vice admiral after 3 years service, in the discretion of the President, regardless of total length of service. Provision is also added for retirement with the grade and pay of vice admiral in case of physical disability. 81st Congress, House Report No. 557.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–206 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Any Commandant who is not reappointed shall, at the expiration of his term, be retired with the grade of admiral.''

1986—Pub. L. 99–348 struck out ''and retired pay computed at the highest rates of basic pay applicable to him while he served as Commandant'' after ''admiral'' in subsecs. (a) to (c).

1982—Subsec. (a). Pub. L. 97–295 substituted ''Commandant'' for ''commandant''.

1966—Subsec. (c). Pub. L. 89–444, § 1(4), removed requirement that the Commandant serve 2½ years as Commandant before being eligible for retirement with the grade of admiral and retired pay computed at the highest rates of basic pay applicable to him while he served as Commandant.

Subsec. (d). Pub. L. 89–444, § 1(5), repealed subsec. (d) which provided that a Commandant who retired within 2½ years of the date of his original appointment as Commandant would retire in his permanent grade and with the retired pay of that grade.

1963—Subsecs. (a) to (c). Pub. L. 88–130 substituted ''of admiral and retired pay computed at the highest rates of basic pay applicable to him while he served as Commandant'' for ''and retired pay of admiral''.

1960—Pub. L. 86–474 authorized any Commandant who is not reappointed at the expiration of his term to be retired with the grade and retired pay of admiral, directed placement on the retired list with the grade and retired pay of admiral for a Commandant who is retired for physical disability, reduced from three to two and one-half years the period that the Commandant must serve before he may voluntarily apply retirement without regard to total length of service, and provided that any Commandant who retires within two and one-half years of the date of his original appointment as Commandant shall retire in his permanent grade and with the retired pay of that grade.

§ 47. Vice Commandant; assignment

The President may appoint, by and with the advice and consent of the Senate, one Vice Commandant who shall rank next after the Commandant, shall perform such duties as the Commandant may prescribe and shall act as Commandant during the absence or disability of the Commandant or in the event that there is a vacancy in the office of Commandant. The Vice Commandant shall be selected from the officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendation for such appointment. The Vice Commandant shall, while so serving, have the grade of vice admiral with pay and allowances of that grade. The appointment and grade of a Vice Commandant shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in subsection[1] 51(d) of this title.

(Aug. 4, 1949, ch. 393, 63 Stat. 499; Pub. L. 86–474, § 1(6), May 14, 1960, 74 Stat. 144; Pub. L. 88–130, § 1(5), (6), Sept. 24, 1963, 77 Stat. 175; Pub. L. 89–444, § 1(6), (7), June 9, 1966, 80 Stat. 195; Pub. L. 92–451, § 1(4), Oct. 2, 1972, 86 Stat. 755; Pub. L. 97–295, § 2(2), Oct. 12, 1982, 96 Stat. 1301; Pub. L. 99–348, title II, § 205(b)(2), July 1, 1986, 100 Stat. 700; Pub. L. 103–206, title II, § 204(b)(1), Dec. 20, 1993, 107 Stat. 2421.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 11a, 12 (Apr. 16, 1908, ch. 145, §§ 1, 2, 35 Stat. 61; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; Jan. 12, 1923, ch. 25, § 2, 42 Stat. 1130; May 24, 1939, ch. 148, §§ 2, 3, 53 Stat. 757; June 6, 1940, ch. 257, §§ 1(b), 3, 54 Stat. 246; July 23, 1947, ch. 301, § 2, 61 Stat. 410; May 19, 1948, ch. 305, 62 Stat. 239).

Said sections have been divided. The provisions of the proviso of title 14, U.S.C., 1946 ed., § 11a, and the first proviso of title 14, U.S.C., 1946 ed., § 12, are placed in section 48 of this title and the remainder is placed in this section.

The provisions regarding appointment of the Assistant Commandant and Engineer in Chief are coordinated, inasmuch as these positions are about equal in

[1] So in original. Probably should be ''section''.

[1] So in original. Probably should be ''section''.

the Coast Guard organization. The qualification that the Engineer in Chief be appointed from the active list of engineering officers is changed to the active list of officers who have qualified for engineering duty, because there is no longer any provision for a corps of engineering officers. 81st Congress, House Report No. 557.

AMENDMENTS

1993—Pub. L. 103–206 struck out "; retirement" after "assignment" in section catchline, struck out "(a)" before "The President may appoint", substituted "The appointment and grade of a Vice Commandant shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in subsection 51(d) of this title." for "The appointment of a Vice Commandant shall be effective on the date the officer assumes such duty, and shall terminate on the date he is detached from such duty.", and struck out subsecs. (b) to (d) which read as follows:

"(b) A Vice Commandant, while so serving, who is retired for physical disability shall be placed on the retired list with the grade of vice admiral.

"(c) An officer who is retired while serving as Vice Commandant, or who, after serving at least two and one-half years as Vice Commandant, is retired after completion of that service while serving in a lower rank or grade, may, in the discretion of the President, be retired with the grade of vice admiral.

"(d) An officer who, after serving less than two and one-half years as Vice Commandant, is retired after completion of that service while serving in a lower rank or grade, shall be retired in his permanent grade."

1986—Subsecs. (b), (c). Pub. L. 99–348, §205(b)(2)(A), struck out "and retired pay" after "with the grade".

Subsec. (d). Pub. L. 99–348, §205(b)(2)(B), struck out "and with the retired pay of that grade" after "permanent grade".

1982—Subsec. (a). Pub. L. 97–295 substituted "a" for "an" before "Vice Commandant".

1972—Subsec. (a). Pub. L. 92–451 substituted "Vice Commandant" for "Assistant Commandant" in four places, and "above the grade of captain" for "in the grade of captain or above" in second sentence.

Subsec. (b). Pub. L. 92–451 substituted "A Vice Commandant" for "An Assistant Commandant".

Subsecs. (c), (d). Pub. L. 92–451 substituted "Vice Commandant" for "Assistant Commandant" wherever appearing.

1966—Subsec. (c). Pub. L. 89–444, §1(6), struck out requirement that Assistant Commandant serve 2½ years as Assistant Commandant before becoming eligible for retirement with the grade and pay of vice admiral.

Subsec. (d). Pub. L. 89–444, §1(7), struck out provision that section 334 of this title, which covers cases of retirement when a higher grade has been held, shall not apply to an officer retiring within 2½ years of the date of his original assignment as Assistant Commandant.

1963—Subsec. (a). Pub. L. 88–130, §1(5), substituted "officers on the active duty promotion list serving in the grade of captain or above" for "active list of officers who hold a permanent commission as captain or above".

Subsec. (d). Pub. L. 88–130, §1(6), substituted "section 334" for "section 243".

1960—Pub. L. 86–474 amended section generally, and, among other changes, required Assistant Commandant to be appointed from the active list of officers who hold a permanent commission as captain or above, raised grade of Assistant Commandant from rear admiral to vice admiral, increased his pay and allowances from that of a rear admiral (upper half) to that of a vice admiral, struck out provisions which related to an Engineer in Chief, and added subsecs. (b) to (d).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–451 effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92–451, set out as a note under section 290 of this title.

EFFECTIVE DATE OF HIGHER GRADE AND INCREASED PAY AND ALLOWANCES

The increased grade of vice admiral for the Vice Commandant, including the pay and allowances applicable to such grade, effective on the first day of the month following May 14, 1960, see section 2 of Pub. L. 86–474, set out as a note under section 44 of this title.

[§§ 48, 49. Repealed. Pub. L. 86–474, §1(7), May 14, 1960, 74 Stat. 145]

Section 48, act Aug. 4, 1949, ch. 393, 63 Stat. 499, related to permanent grade of that Assistant Commandant and Engineer in Chief on expiration of term.

Section 49, act Aug. 4, 1949, ch. 393, 63 Stat. 499, related to grade and retired pay upon retirement of Assistant Commandant or Engineer in Chief.

§50. Area commanders

(a) The President may appoint, by and with the advice and consent of the Senate, a Commander, Atlantic Area, and a Commander, Pacific Area, each of whom shall be an intermediate commander between the Commandant and the district commanders in his respective area and shall perform such duties as the Commandant may prescribe. The area commanders shall be appointed from officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendations for such appointments.

(b) An area commander shall, while so serving, have the grade of vice admiral with pay and allowances of that grade. The appointment and grade of an area commander shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in subsection[1] 51(d) of this title.

(Added Pub. L. 92–451, §1(5), Oct. 2, 1972, 86 Stat. 755; amended Pub. L. 103–206, title II, §204(c), Dec. 20, 1993, 107 Stat. 2421.)

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–206 substituted "The appointment and grade of an area commander shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in subsection 51(d) of this title." for "The appointment of an area commander is effective on the date the officer assumes that duty, and terminates on the date he is detached from that duty."

EFFECTIVE DATE

Section effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92–451, set out as an Effective Date of 1972 Amendment note under section 290 of this title.

§50a. Chief of Staff

(a) The President may appoint, by and with the advice and consent of the Senate, a Chief of Staff of the Coast Guard who shall rank next after the area commanders and who shall perform duties as prescribed by the Commandant. The Chief of Staff shall be appointed from the officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendations for the appointment.

[1] So in original. Probably should be "section".

(b) The Chief of Staff shall have the grade of vice admiral with the pay and allowances of that grade. The appointment and grade of the Chief of Staff shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.

(Added Pub. L. 103–206, title II, § 205(b)(1), Dec. 20, 1993, 107 Stat. 2422.)

§ 51. Retirement

(a) An officer who, while serving in the grade of vice admiral, is retired for physical disability shall be placed on the retired list with the grade of vice admiral.

(b) An officer who is retired while serving in the grade of vice admiral, or who, after serving at least two and one-half years in the grade of vice admiral, is retired while serving in a lower grade, may in the discretion of the President, be retired with the grade of vice admiral.

(c) An officer who, after serving less than two and one-half years in the grade of vice admiral, is retired while serving in a lower grade, shall be retired in his permanent grade.

(d) An officer serving in the grade of admiral or vice admiral shall continue to hold that grade—

(1) while being processed for physical disability retirement, beginning on the day of the processing and ending on the day that officer is retired, but not for more than 180 days; and

(2) while awaiting retirement, beginning on the day that officer is relieved from the position of Commandant, Vice Commandant, Area Commander, or Chief of Staff and ending on the day before the officer's retirement, but not for more than 60 days.

(Added Pub. L. 92–451, § 1(5), Oct. 2, 1972, 86 Stat. 755; amended Pub. L. 99–348, title II, § 205(b)(3), July 1, 1986, 100 Stat. 700; Pub. L. 103–206, title II, §§ 204(d), 205(c), Dec. 20, 1993, 107 Stat. 2421, 2422.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–206, § 205(c)(1), substituted "in the grade of vice admiral" for "as Commander, Atlantic Area, or Commander, Pacific Area".

Subsec. (b). Pub. L. 103–206, § 205(c)(2), substituted "in the grade of vice admiral" for "as Commander, Atlantic Area, or Commander, Pacific Area".

Subsec. (d). Pub. L. 103–206, § 204(d), added subsec. (d).

1986—Subsecs. (a), (b). Pub. L. 99–348, § 205(b)(3)(A), struck out "and retired pay" after "with the grade".

Subsec. (c). Pub. L. 99–348, § 205(b)(3)(B), struck out "and with the retired pay of that grade" after "permanent grade".

EFFECTIVE DATE

Section effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92–451, set out as an Effective Date of 1972 Amendment note under section 290 of this title.

§ 52. Vice admirals, continuity of grade

The continuity of an officer's precedence on the active duty promotion list, date of rank, grade, pay, and allowances as a vice admiral shall not be interrupted by the termination of an appointment for the purpose of reappointment to another position as a vice admiral or admiral.

(Added Pub. L. 97–322, title I, § 115(a)(1), Oct. 15, 1982, 96 Stat. 1585; amended Pub. L. 101–225, title II, § 203(1), Dec. 12, 1989, 103 Stat. 1911.)

AMENDMENTS

1989—Pub. L. 101–225 inserted "or admiral" after "position as a vice admiral".

§ 53. Office of the Coast Guard Reserve; Director

(a) ESTABLISHMENT OF OFFICE; DIRECTOR.—There is in the executive part of the Coast Guard an Office of the Coast Guard Reserve. The head of the Office is the Director of the Coast Guard Reserve. The Director of the Coast Guard Reserve is the principal adviser to the Commandant on Coast Guard Reserve matters and may have such additional functions as the Commandant may direct.

(b) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint the Director of the Coast Guard Reserve, from officers of the Coast Guard who—

(1) have had at least 10 years of commissioned service;

(2) are in a grade above captain; and

(3) have been recommended by the Secretary of Homeland Security.

(c) TERM.—(1) The Director of the Coast Guard Reserve holds office for a term determined by the President, normally two years, but not more than four years. An officer may be removed from the position of Director for cause at any time.

(2) The Director of the Coast Guard Reserve, while so serving, holds a grade above Captain, without vacating the officer's permanent grade.

(d) BUDGET.—The Director of the Coast Guard Reserve is the official within the executive part of the Coast Guard who, subject to the authority, direction, and control of the Secretary of Homeland Security and the Commandant, is responsible for preparation, justification, and execution of the personnel, operation and maintenance, and construction budgets for the Coast Guard Reserve. As such, the Director of the Coast Guard Reserve is the director and functional manager of appropriations made for the Coast Guard Reserve in those areas.

(e) ANNUAL REPORT.—The Director of the Coast Guard Reserve shall submit to the Secretary of Homeland Security and the Secretary of Defense an annual report on the state of the Coast Guard Reserve and the ability of the Coast Guard Reserve to meet its missions. The report shall be prepared in conjunction with the Commandant and may be submitted in classified and unclassified versions.

(Added Pub. L. 106–65, div. A, title V, § 557(a), Oct. 5, 1999, 113 Stat. 619; amended Pub. L. 107–296, title XVII, § 1704(a), Nov. 25, 2002, 116 Stat. 2314.)

AMENDMENTS

2002—Subsecs. (b)(3), (d), (e). Pub. L. 107–296 substituted "of Homeland Security" for "of Transportation".

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of

Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

§ 54. Chief of Staff to President: appointment

The President, by and with the advice and consent of the Senate, may appoint a flag officer of the Coast Guard as the Chief of Staff to the President.

(Added Pub. L. 109–163, div. A, title V, § 597(a), Jan. 6, 2006, 119 Stat. 3283.)

CHAPTER 5—FUNCTIONS AND POWERS

Sec.
81. Aids to navigation authorized.
82. Cooperation with Administrator of the Federal Aviation Administration.
83. Unauthorized aids to maritime navigation; penalty.
84. Interference with aids to navigation; penalty.
85. Aids to maritime navigation; penalty.
86. Marking of obstructions.
[87. Repealed.]
88. Saving life and property.
89. Law enforcement.
90. Ocean stations.
91. Safety of naval vessels.
92. Secretary; general powers.
93. Commandant; general powers.
94. Oceanographic research.
95. Special agents of the Coast Guard Investigative Service law enforcement authority.
96. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards.
97. Procurement of buoy chain.
98. National Coast Guard Museum.

AMENDMENTS

2004—Pub. L. 108–293, title II, § 213(b), Aug. 9, 2004, 118 Stat. 1037, added item 98.

1998—Pub. L. 105–383, title II, § 205(b), Nov. 13, 1998, 112 Stat. 3416, added item 95 and struck out former item 95 ''Civilian agents authorized to carry firearms''.

1996—Pub. L. 104–324, title III, § 311(b), title XI, § 1128(b), Oct. 19, 1996, 110 Stat. 3920, 3984, added items 96 and 97.

1988—Pub. L. 100–448, § 10(b), Sept. 28, 1988, 102 Stat. 1842, added item 95.

1976—Pub. L. 94–546, § 1(5), (7), Oct. 18, 1976, 90 Stat. 2519, substituted ''Federal Aviation Administration'' for ''Federal Aviation Agency'' in item 82, and struck out item 87.

1974—Pub. L. 93–283, § 1(4), May 14, 1974, 88 Stat. 140, struck out ''on fixed structures'' after ''maritime navigation'' in item 85.

1961—Pub. L. 87–396, § 2, Oct. 5, 1961, 75 Stat. 827, added item 94.

1958—Pub. L. 85–726, title XIV, § 1404, Aug. 23, 1958, 72 Stat. 808, substituted ''Administrator of the Federal Aviation Agency'' for ''Administrator of Civil Aeronautics'' in item 82.

1956—Act June 4, 1956, ch. 351, § 3, 70 Stat. 227, substituted ''Aids to maritime navigation on fixed structures'' for ''Failure to maintain lights'' in item 85.

§ 81. Aids to navigation authorized

In order to aid navigation and to prevent disasters, collisions, and wrecks of vessels and aircraft, the Coast Guard may establish, maintain, and operate:

(1) aids to maritime navigation required to serve the needs of the armed forces or of the commerce of the United States;

(2) aids to air navigation required to serve the needs of the armed forces of the United States peculiar to warfare and primarily of military concern as determined by the Secretary of Defense or the Secretary of any department within the Department of Defense and as required by any of those officials; and

(3) electronic aids to navigation systems (a) required to serve the needs of the armed forces of the United States peculiar to warfare and primarily of military concern as determined by the Secretary of Defense or any department within the Department of Defense; or (b) required to serve the needs of the maritime commerce of the United States; or (c) required to serve the needs of the air commerce of the United States as requested by the Administrator of the Federal Aviation Administration.

These aids to navigation other than electronic aids to navigation systems shall be established and operated only within the United States, the waters above the Continental Shelf, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and beyond the territorial jurisdiction of the United States at places where naval or military bases of the United States are or may be located. The Coast Guard may establish, maintain, and operate aids to maritime navigation under paragraph (1) of this section by contract with any person, public body, or instrumentality.

(Aug. 4, 1949, ch. 393, 63 Stat. 500; June 22, 1951, ch. 150, 65 Stat. 89; Sept. 3, 1954, ch. 1263, § 30, 68 Stat. 1237; Pub. L. 85–726, title XIV, § 1404, Aug. 23, 1958, 72 Stat. 808; Pub. L. 89–662, § 1, Oct. 14, 1966, 80 Stat. 912; Pub. L. 94–546, § 1(3), Oct. 18, 1976, 90 Stat. 2519; Pub. L. 97–322, title I, § 105(a), Oct. 15, 1982, 96 Stat. 1582.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed.; §§ 50m, 50*o*, and on title 33, U.S.C., 1946 ed., §§ 720, 720a, 739, 740, 740a, 740b, 769 (R.S. 4668; June 23, 1874, ch. 455, § 1, 18 Stat. 220; June 17, 1910, ch. 301, § 7, 36 Stat. 538; Mar. 3, 1915, ch. 81, § 5, 38 Stat. 927; Aug. 28, 1916, ch. 414, § 3, 39 Stat. 538; May 22, 1926, ch. 371, § 6, 44 Stat. 626; Feb. 25, 1925, ch. 313, § 3, 45 Stat. 1262; Aug. 16, 1937, ch. 665, § 3, 50 Stat. 667; June 26, 1948, ch. 672, §§ 1, 3, 62 Stat. 1050).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1982—Pub. L. 97–322 authorized the Coast Guard to contractually establish, maintain, and operate aids to maritime navigation.

1976—Pub. L. 94–546 substituted ''Federal Aviation Administration'' for ''Federal Aviation Agency'' in cl. (3)(c).

1966—Pub. L. 89–662 expanded authorization for establishment, maintenance, and operation of aids to air navigation and electronic aids to navigation systems required to serve the needs of the armed forces to include needs peculiar to warfare and primarily of military concern as determined by the Secretary of Defense or the Secretary of any department within the Department of Defense, substituted ''electronic aids to navigation systems'' for ''Loran stations'', and altered the list of locations where aids to navigation other than electronic aids to navigation could be located by adding the waters above the Continental Shelf and by striking out places where such aids to navigation had been established prior to June 26, 1948.

1958—Pub. L. 85–726 substituted ''Administrator of the Federal Aviation Agency'' for ''Administrator of Civil Aeronautics''.

1954—Act Sept. 3, 1954, substituted ''Department of Defense'' for ''National Military Establishment''.

1951—Act June 22, 1951, extended Coast Guard's authority to include the Trust Territory of the Pacific Islands.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 1505(2) of Pub. L. 85–726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the amendment made by Pub. L. 85–726 is effective on 60th day following date on which Administrator of Federal Aviation Agency [Federal Aviation Administration] first appointed under Pub. L. 85–726 qualifies and takes office. Administrator appointed, qualified, and took office on Oct. 31, 1958.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

AIDS TO NAVIGATION REPORT

Pub. L. 105–383, title II, § 208, Nov. 13, 1998, 112 Stat. 3416, provided that: "Not later than 18 months after the date of the enactment of this Act [Nov. 13, 1998], the Commandant of the Coast Guard shall submit to Congress a report on the use of the Coast Guard's aids to navigation system. The report shall include an analysis of the respective use of the aids to navigation system by commercial interests, members of the general public for personal recreation, Federal and State government for public safety, defense, and other similar purposes. To the extent practicable within the time allowed, the report shall include information regarding degree of use of the various portions of the system."

REPORT TO CONGRESS; CONTRACTUAL AUTHORITY; INCREASE IN RATIO OF CIVILIAN TO MILITARY EMPLOYEES

Section 105(b) of Pub. L. 97–322 provided that: "Not later than one year after the date of enactment of this title [Oct. 15, 1982], the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress evaluating—

"(1) the exercise by contract of the authority of the Coast Guard under section 81 of title 14, United States Code, to establish, maintain, and operate aids to navigation, including a discussion of any problems involved in exercising such authority by contract, the reasons for exercising or failing to exercise such authority by contract in particular areas, and the feasibility of expanding the exercise of such authority by contract; and

"(2) the advantages and disadvantages of increasing the ratio of civilian to military employees assigned to the establishment, maintenance, and operation of aids to navigation on the inland waterways of the United States."

CONTRACTUAL AUTHORITY DEPENDENT UPON AVAILABILITY OF APPROPRIATED FUNDS

Section 105(c) of Pub. L. 97–322 provided that: "Any authority to enter into contracts provided in this section [amending this section and enacting provision set out as Report to Congress note under this section] shall be available only to the extent that appropriated funds are available for that purpose."

EX. ORD. NO. 7521. USE OF VESSELS FOR ICE-BREAKING OPERATIONS IN CHANNELS AND HARBORS

Ex. Ord. No. 7521, Dec. 21, 1936, 1 F.R. 2527, provided:

1. The Coast Guard, operating under the direction of the Secretary of the Treasury, is hereby directed to assist in keeping open to navigation by means of ice-breaking operations, in so far as practicable and as the exigencies may require, channels and harbors in accordance with the reasonable demands of commerce; and to use for that purpose such vessels subject to its control and jurisdiction or which may be made available to it under paragraph 2 hereof as are necessary and are reasonably suitable for such operations.

2. The Secretary of War [Army], the Secretary of the Navy, and the Secretary of Commerce are hereby directed to cooperate with the Coast Guard in such ice-breaking operations, and to furnish the Coast Guard, upon the request of the Commandant thereof, for this service such vessels under their jurisdiction and control as in the opinion of the Commandant, with the concurrence of the head of the Department concerned, are available and are, or may readily be made, suitable for this service.

§ 82. Cooperation with Administrator of the Federal Aviation Administration

The Coast Guard, in establishing, maintaining, or operating any aids to air navigation herein provided, shall solicit the cooperation of the Administrator of the Federal Aviation Administration to the end that the personnel and facilities of the Federal Aviation Administration will be utilized to the fullest possible advantage. Before locating and operating any such aid on military or naval bases or regions, the consent of the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, as the case may be, shall first be obtained. No such aid shall be located within the territorial jurisdiction of any foreign country without the consent of the government thereof. Nothing in this title shall be deemed to limit the authority granted by subchapter II of chapter 22 of title 10 or part A of subtitle VII of title 49.

(Aug. 4, 1949, ch. 393, 63 Stat. 500; Sept. 3, 1954, ch. 1263, § 31, 68 Stat. 1237; Pub. L. 85–726, title XIV, § 1404, Aug. 23, 1958, 72 Stat. 808; Pub. L. 89–662, § 2, Oct. 14, 1966, 80 Stat. 912; Pub. L. 94–546, § 1(4), (5), Oct. 18, 1976, 90 Stat. 2519; Pub. L. 97–295, § 2(3), Oct. 12, 1982, 96 Stat. 1301; Pub. L. 99–640, § 10(a)(3), Nov. 10, 1986, 100 Stat. 3549; Pub. L. 103–272, § 5(d), July 5, 1994, 108 Stat. 1373; Pub. L. 104–201, div. A, title XI, § 1122(c), Sept. 23, 1996, 110 Stat. 2687.)

HISTORICAL AND REVISION NOTES

1949 ACT

Based on title 14, U.S.C., 1946 ed., § 50n (June 26, 1948, ch. 672, § 2, 62 Stat. 1050). 81st Congress, House Report No. 557.

1982 ACT

The citation "(49 U.S.C. 1301 et seq.)" is substituted for "(ch. 20 of title 49)" for consistency in title 14. The words "chapter 167 of title 10" are substituted for "sections 7392 and 7394 of title 10" to reflect the replacement of those sections by chapter 167 of title 10 under section 1(50) of the bill.

AMENDMENTS

1996—Pub. L. 104–201 substituted "subchapter II of chapter 22" for "chapter 167".

1994—Pub. L. 103–272 amended last sentence generally, substituting "chapter 167 of title 10 or part A of subtitle VII of title 49" for "the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.), or by the provisions of chapter 167 of title 10".

1986—Pub. L. 99–640 substituted "(49 App. U.S.C. 1301 et seq.)" for ", as amended (49 U.S.C. 1301 et seq.)".

1982—Pub. L. 97–295 substituted "(49 U.S.C. 1301 et seq.)" for "(ch. 20 of title 49)" and "chapter 167 of title 10" for "sections 7392 and 7394 of title 10".

1976—Pub. L. 94–546, § 1(5), substituted "Federal Aviation Administration" for "Federal Aviation Agency" in section catchline.

Pub. L. 94–546, § 1(4), substituted ''Federal Aviation Administration'' for ''Federal Aviation Agency'' wherever appearing in first sentence.

1966—Pub. L. 89–662 substituted ''granted by the Federal Aviation Act of 1958, as amended (ch. 20 of title 49), or by the provisions of sections 7392 and 7394 of title 10'' for ''granted by the provisions of section 458 of Title 5, or by section 475(e) of Title 49 or subchapter III of chapter 9 of that title''.

1958—Pub. L. 85–726 substituted ''Administrator of the Federal Aviation Agency'' for ''Administrator of Civil Aeronautics'', and ''Federal Aviation Agency'' for ''Civil Aeronautics Administration''.

1954—Act Sept. 3, 1954, substituted ''section 175(e) of Title 49 or subchapter III of chapter 9 of that title'' for ''sections 175(f) or 451 to 458 of Title 49''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 1505(2) of Pub. L. 85–726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the amendment made by Pub. L. 85–726 is effective on 60th day following date on which Administrator of Federal Aviation Agency [Federal Aviation Administration] first appointed under Pub. L. 85–726 qualifies and takes office. Administrator appointed, qualified, and took office on Oct. 31, 1958.

§ 83. Unauthorized aids to maritime navigation; penalty

No person, or public body, or instrumentality, excluding the armed services, shall establish, erect, or maintain any aid to maritime navigation in or adjacent to the waters subject to the jurisdiction of the United States, its territories or possessions, or the Trust Territory of the Pacific Islands, or on the high seas if that person, or public body, or instrumentality is subject to the jurisdiction of the United States, without first obtaining authority to do so from the Coast Guard in accordance with applicable regulations. Whoever violates the provisions of this section or any of the regulations issued by the Secretary in accordance herewith shall be guilty of a misdemeanor and shall be fined not more than $100 for each offense. Each day during which such violation continues shall be considered as a new offense.

(Aug. 4, 1949, ch. 393, 63 Stat. 500; Pub. L. 93–283, § 1(1), May 14, 1974, 88 Stat. 139.)

HISTORICAL AND REVISION NOTES

Based on title 33, U.S.C., 1946 ed., § 759 (June 20, 1906, ch. 3447, § 3, 34 Stat. 324; June 17, 1910, ch. 301, § 6, 36 Stat. 538; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1974—Pub. L. 93–283 substituted ''maritime navigation in or adjacent to the waters subject to the jurisdiction of the United States, its territories or possessions, or the Trust Territory of the Pacific Islands, or on the high seas if that person, or public body, or instrumentality is subject to the jurisdiction of the United States, without first obtaining authority'' for ''maritime navigation without first obtaining authority''.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 84. Interference with aids to navigation; penalty

It shall be unlawful for any person, or public body, or instrumentality, excluding the armed forces, to remove, change the location of, obstruct, wilfully damage, make fast to, or interfere with any aid to navigation established, installed, operated, or maintained by the Coast Guard pursuant to section 81 of this title, or with any aid to navigation lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of this title, or to anchor any vessel in any of the navigable waters of the United States so as to obstruct or interfere with range lights maintained therein. Whoever violates the provisions of this section shall be guilty of a misdemeanor and shall be fined not more than $500 for each offense. Each day during which such violation shall continue shall be considered as a new offense.

(Aug. 4, 1949, ch. 393, 63 Stat. 500.)

HISTORICAL AND REVISION NOTES

Based on title 33, U.S.C., 1946, ed., §§ 761, 762 (May 14, 1908, ch. 168, § 6, 35 Stat. 162; June 17, 1910, ch. 301, § 6, 36 Stat. 538; Mar. 3, 1915, ch. 81, § 8, 38 Stat. 928; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 85. Aids to maritime navigation; penalty

The Secretary shall prescribe and enforce necessary and reasonable rules and regulations, for the protection of marine navigation, relative to the establishment, maintenance, and operation of lights and other signals on fixed and floating structures in or over waters subject to the jurisdiction of the United States and in the high seas for structures owned or operated by persons subject to the jurisdiction of the United States. Any owner or operator of such a structure, excluding an agency of the United States, who violates any of the rules or regulations prescribed hereunder, commits a misdemeanor and shall be punished, upon conviction thereof, by a fine of not exceeding $100 for each day which such violation continues.

(Aug. 4, 1949, ch. 393, 63 Stat. 501; June 4, 1956, ch. 351, § 1, 70 Stat. 226; Pub. L. 93–283, § 1(2), May 14, 1974, 88 Stat. 139.)

HISTORICAL AND REVISION NOTES

Based on title 33, U.S.C., 1946 ed., § 760 (May 14, 1908, ch. 168, § 5, 35 Stat. 162).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1974—Pub. L. 93–283 struck out ''on fixed structures'' after ''maritime navigation'' in section catchline and in text substituted ''fixed and floating structures in or over waters subject to the jurisdiction of the United States and in the high seas for structures owned or operated by persons subject to the jurisdiction of the

United States'' for ''fixed structures in or over navigable waters of the United States''.

1956—Act June 4, 1956, amended section generally, vesting in Secretary rule-making authority, for the protection of maritime navigation, relative to the establishment, maintenance, and operation of lights and other signals on fixed structures in or over navigable waters of the United States, and excluding agencies of United States from its provisions.

§ 86. Marking of obstructions

The Secretary may mark for the protection of navigation any sunken vessel or other obstruction existing on the navigable waters or waters above the continental shelf of the United States in such manner and for so long as, in his judgment, the needs of maritime navigation require. The owner of such an obstruction shall be liable to the United States for the cost of such marking until such time as the obstruction is removed or its abandonment legally established or until such earlier time as the Secretary may determine. All moneys received by the United States from the owners of obstructions, in accordance with this section, shall be covered into the Treasury of the United States as miscellaneous receipts. This section shall not be construed so as to relieve the owner of any such obstruction from the duty and responsibility suitably to mark the same and remove it as required by law.

(Aug. 4, 1949, ch. 393, 63 Stat. 501; Pub. L. 89–191, Sept. 17, 1965, 79 Stat. 822; Pub. L. 93–283, § 1(3), May 14, 1974, 88 Stat. 139.)

HISTORICAL AND REVISION NOTES

Based on title 33, U.S.C., 1946 ed., § 736 (R.S. 4676; June 17, 1910, ch. 301, § 6, 36 Stat. 538; Aug. 16, 1937, ch. 665, § 1, 50 Stat. 666; 1939 Reorg. Plan No. II, § 2(a), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1432).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1974—Pub. L. 93–283 substituted ''the navigable waters or waters above the continental shelf of the United States'' for ''any navigable waters of the United States''.

1965—Pub. L. 89–191 vested sole responsibility for wreck marking in the Coast Guard by giving the Secretary discretionary authority to mark wrecks or other similar obstructions for as long as in his judgment the needs of maritime navigation may require, by removing reference to responsibility of the Department of the Army to mark wrecks, after abandonment and before removal, and by giving the Secretary the authority to terminate an owner's liability to pay the cost of marking a wreck.

[§ 87. Repealed. Pub. L. 94–546, § 1(6), (7), Oct. 18, 1976, 90 Stat. 2519]

Section, act Aug. 4, 1949, ch. 393, § 1, 63 Stat. 501, related to color and numbering of buoys along coast, or in bays, harbors, sounds, or channels, as indicating whether such buoys were to be passed on the starboard or port hand and prescribed the coloring for buoys in channel ways.

§ 88. Saving life and property

(a) In order to render aid to distressed persons, vessels, and aircraft on and under the high seas and on and under the waters over which the United States has jurisdiction and in order to render aid to persons and property imperiled by flood, the Coast Guard may:

(1) perform any and all acts necessary to rescue and aid persons and protect and save property;

(2) take charge of and protect all property saved from marine or aircraft disasters, or floods, at which the Coast Guard is present, until such property is claimed by persons legally authorized to receive it or until otherwise disposed of in accordance with law or applicable regulations, and care for bodies of those who may have perished in such catastrophes;

(3) furnish clothing, food, lodging, medicines, and other necessary supplies and services to persons succored by the Coast Guard; and

(4) destroy or tow into port sunken or floating dangers to navigation.

(b)(1) Subject to paragraph (2), the Coast Guard may render aid to persons and protect and save property at any time and at any place at which Coast Guard facilities and personnel are available and can be effectively utilized.

(2) The Commandant shall make full use of all available and qualified resources, including the Coast Guard Auxiliary and individuals licensed by the Secretary pursuant to section 8904(b) of title 46, United States Code, in rendering aid under this subsection in nonemergency cases.

(c) An individual who knowingly and willfully communicates a false distress message to the Coast Guard or causes the Coast Guard to attempt to save lives and property when no help is needed is—

(1) guilty of a class D felony;

(2) subject to a civil penalty of not more than $5,000; and

(3) liable for all costs the Coast Guard incurs as a result of the individual's action.

(d) The Secretary shall establish a helicopter rescue swimming program for the purpose of training selected Coast Guard personnel in rescue swimming skills, which may include rescue diver training.

(Aug. 4, 1949, ch. 393, 63 Stat. 501; Pub. L. 91–278, § 1(3), June 12, 1970, 84 Stat. 304; Pub. L. 100–448, § 30(a), Sept. 28, 1988, 102 Stat. 1849; Pub. L. 101–595, title IV, § 401, Nov. 16, 1990, 104 Stat. 2989; Pub. L. 104–324, title II, § 213(a), Oct. 19, 1996, 110 Stat. 3915.)

HISTORICAL AND REVISION NOTES

Derived from title 14, U.S.C., 1946 ed., §§ 29, 53, 55, 60, 61, 62, 63, 104, and title 34, U.S.C., 1946 ed., § 471 (R.S. 1536, R.S. 2759; June 18, 1878, ch. 265, § 4, 20 Stat. 163; Apr. 19, 1906, ch. 1640, §§ 1–3, 34 Stat. 123; May 12, 1906, ch. 2454, 34 Stat. 190; June 24, 1914, ch. 124, 38 Stat. 387; Aug. 29, 1916, ch. 417, 39 Stat. 601; Aug. 6, 1947, ch. 502, 61 Stat. 786).

This section broadens existing law in that it authorizes the Coast Guard to engage in saving life and property in the broadest possible terms, without limitation as to place. This section reflects existing sentiment as to Coast Guard functions in relation to saving life and property. There is no intention to supersede or conflict with the present authority of the Civil Aeronautics Board to investigate certain aircraft wrecks. 81st Congress, House Report No. 557.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–324 added subsec. (d).

1990—Subsec. (c). Pub. L. 101–595 added subsec. (c).

1988—Subsec. (b). Pub. L. 100–448 designated existing provisions as par. (1), substituted ''Subject to paragraph (2), the Coast Guard'' for ''The Coast Guard'', and added par. (2).

1970—Subsec. (a). Pub. L. 91–278 substituted ''on and under the high seas and on and under the waters'' for ''on the high seas and on waters'' in introductory text.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

MODERNIZATION OF NATIONAL DISTRESS AND RESPONSE SYSTEM

Pub. L. 107–295, title III, § 346, Nov. 25, 2002, 116 Stat. 2107, provided that:

''(a) REPORT.—The Secretary of the department in which the Coast Guard is operating shall prepare a status report on the modernization of the National Distress and Response System and transmit the report, not later than 60 days after the date of enactment of this Act [Nov. 25, 2002] and annually thereafter until completion of the project, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

''(b) CONTENTS.—The report required by subsection (a) shall—

''(1) set forth the scope of the modernization, the schedule for completion of the System, and information on progress in meeting the schedule and on any anticipated delays;

''(2) specify the funding expended to-date on the System, the funding required to complete the System, and the purposes for which the funds were or will be expended;

''(3) describe and map the existing public and private communications coverage throughout the waters of the coastal and internal regions of the continental United States, Alaska, Hawaii, Guam, and the Caribbean, and identify locations that possess direction-finding, asset-tracking communications, and digital selective calling service;

''(4) identify areas of high risk to boaters and Coast Guard personnel due to communications gaps;

''(5) specify steps taken by the Secretary to fill existing gaps in coverage, including obtaining direction-finding equipment, digital recording systems, asset-tracking communications, use of commercial VHF services, and digital selective calling services that meet or exceed Global Maritime Distress and Safety System requirements adopted under the International Convention for the Safety of Life at Sea [see 33 U.S.C. 1602 and notes thereunder];

''(6) identify the number of VHF–FM radios equipped with digital selective calling sold to United States boaters;

''(7) list all reported marine accidents, casualties, and fatalities occurring in areas with existing communications gaps or failures, including incidents associated with gaps in VHF–FM coverage or digital selected calling capabilities and failures associated with inadequate communications equipment aboard the involved vessels during calendar years 1997 and thereafter;

''(8) identify existing systems available to close all identified marine safety gaps before January 1, 2003, including expeditious receipt and response by appropriate Coast Guard operations centers to VHF–FM digital selective calling distress signal; and

''(9) identify actions taken to-date to implement the recommendations of the National Transportation Safety Board in its Report No. MAR–99–01.''

HELICOPTER RESCUE SWIMMING PROGRAM

Pub. L. 98–557, § 9, Oct. 30, 1984, 98 Stat. 2862, required Secretary of department in which Coast Guard was operating to use such sums as necessary, from amounts appropriated for operation and maintenance of Coast Guard, to establish helicopter rescue swimming program for purpose of training selected Coast Guard personnel in rescue swimming skills, prior to repeal by Pub. L. 104–324, title II, § 213(b), Oct. 19, 1996, 110 Stat. 3915.

COAST GUARD POLICIES AND PROCEDURES FOR TOWING AND SALVAGE OF DISABLED VESSELS FOR MINIMIZATION OF COAST GUARD COMPETITION OR INTERFERENCE WITH COMMERCIAL ENTERPRISE

Pub. L. 97–322, title I, § 113, Oct. 15, 1982, 96 Stat. 1585, as amended by Pub. L. 100–448, § 30(b), Sept. 28, 1988, 102 Stat. 1850, provided that: ''The Commandant of the Coast Guard shall review Coast Guard policies and procedures for towing and salvage of disabled vessels in order to further minimize the possibility of Coast Guard competition or interference (other than by the Coast Guard Auxiliary) with private towing activities or other commercial enterprise.''

§ 89. Law enforcement

(a) The Coast Guard may make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States. For such purposes, commissioned, warrant, and petty officers may at any time go on board of any vessel subject to the jurisdiction, or to the operation of any law, of the United States, address inquiries to those on board, examine the ship's documents and papers, and examine, inspect, and search the vessel and use all necessary force to compel compliance. When from such inquiries, examination, inspection, or search it appears that a breach of the laws of the United States rendering a person liable to arrest is being, or has been committed, by any person, such person shall be arrested or, if escaping to shore, shall be immediately pursued and arrested on shore, or other lawful and appropriate action shall be taken; or, if it shall appear that a breach of the laws of the United States has been committed so as to render such vessel, or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel, liable to forfeiture, or so as to render such vessel liable to a fine or penalty and if necessary to secure such fine or penalty, such vessel or such merchandise, or both, shall be seized.

(b) The officers of the Coast Guard insofar as they are engaged, pursuant to the authority contained in this section, in enforcing any law of the United States shall:

(1) be deemed to be acting as agents of the particular executive department or independent establishment charged with the administration of the particular law; and

(2) be subject to all the rules and regulations promulgated by such department or independent establishment with respect to the enforcement of that law.

(c) The provisions of this section are in addition to any powers conferred by law upon such officers, and not in limitation of any powers conferred by law upon such officers, or any other officers of the United States.

(Aug. 4, 1949, ch. 393, 63 Stat. 502; Aug. 3, 1950, ch. 536, § 1, 64 Stat. 406.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 45–47, 51, 52, 66, 67, 104, and on title 33, U.S.C., 1946 ed., § 755 (R.S. 2747, 2758, 2760, 2762; June 18, 1878, ch. 265, § 4, 20 Stat. 163; June 16, 1880, ch. 235, 21 Stat. 263; June 22, 1936, ch. 705, §§ 1–3, 49 Stat. 1820; July 11, 1941, ch. 290, § 7, 55 Stat. 585).

The words ''or such merchandise'' are inserted in the last clause of subsection (a) in order to provide for situations where it may be desirable to seize merchandise without seizing the vessel.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1950—Subsec. (a). Act Aug. 3, 1950, struck out ''to'' before ''examine'' in second sentence.

ANNUAL REPORT ON DRUG INTERDICTION

Pub. L. 104–324, title I, § 103, Oct. 19, 1996, 110 Stat. 3905, as amended by Pub. L. 109–241, title IX, § 901(p)(1), July 11, 2006, 120 Stat. 565, provided that: ''Not later than 30 days after the end of each fiscal year, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on all expenditures related to drug interdiction activities of the Coast Guard on an annual basis.''

ENHANCED DRUG-INTERDICTION ASSISTANCE

Pub. L. 99–145, title XIV, § 1421, Nov. 8, 1985, 99 Stat. 750, required assignment of a member of the Coast Guard to each surface naval vessel at sea in a drug-interdiction area to perform law enforcement functions, prior to repeal by Pub. L. 99–570, title III, § 3053(b)(3), Oct. 27, 1986, 100 Stat. 3207–76. See section 379 of Title 10, Armed Forces.

§ 90. Ocean stations

(a) The Coast Guard is authorized to operate and maintain floating ocean stations for the purpose of providing search and rescue, communication, and air navigation facilities, and meteorological services in such ocean areas as are regularly traversed by aircraft of the United States.

(b) The Coast Guard is authorized, subject to approval by the Administrator of the Federal Aviation Administration, to operate, on floating ocean stations authorized herein, such air navigation facilities as the Administrator may find necessary or desirable for the safe and efficient protection and control of air traffic. The Coast Guard, in establishing, maintaining, or operating such air navigation facilities shall request the cooperation of the Administrator of the Federal Aviation Administration to the end that the personnel and facilities of the Federal Aviation Administration will be utilized to the fullest possible advantage.

(Aug. 4, 1949, ch. 393, 63 Stat. 502; Pub. L. 85–726, title XIV, § 1404, Aug. 23, 1958, 72 Stat. 808; Pub. L. 94–546, § 1(8), Oct. 18, 1976, 90 Stat. 2519.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 50k, 50*l* (June 22, 1948, ch. 600, 62 Stat. 574).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–546 substituted ''Federal Aviation Administration'' for ''Federal Aviation Agency'' wherever appearing.

1958—Subsec. (b). Pub. L. 85–726 substituted ''Administrator of the Federal Aviation Agency'' for ''Administrator of Civil Aeronautics'' in two places, and ''Federal Aviation Agency'' for ''Civil Aeronautics Administration''.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 1505(2) of Pub. L. 85–726, title XV, Aug. 23, 1958, 72 Stat. 810, provided that the amendment made by Pub. L. 85–726 shall be effective on the 60th day following the date on which the Administrator of the Federal Aviation Agency [now Federal Aviation Administration] first appointed under Pub. L. 85–726 qualifies and takes office. The Administrator was appointed, qualified, and took office on Oct. 31, 1958.

§ 91. Safety of naval vessels

(a) The Secretary may control the anchorage and movement of any vessel in the navigable waters of the United States to ensure the safety or security of any United States naval vessel in those waters.

(b) If the Secretary does not exercise the authority in subsection (a) of this section and immediate action is required, the senior naval officer present in command may control the anchorage or movement of any vessel in the navigable waters of the United States to ensure the safety and security of any United States naval vessel under the officer's command.

(c) If a person violates, or a vessel is operated in violation of, this section or a regulation or order issued under this section, the person or vessel is subject to the enforcement provisions in section 13 of the Ports and Waterways Safety Act (33 U.S.C. 1232).

(d) As used in this section ''navigable waters of the United States'' includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.

(Aug. 4, 1949, ch. 393, 63 Stat. 503; Pub. L. 99–640, § 10(a)(4), Nov. 10, 1986, 100 Stat. 3549; Pub. L. 109–241, title II, § 201, July 11, 2006, 120 Stat. 519.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 48a (Nov. 15, 1941, ch. 471, § 1, 55 Stat. 763).

Changes were made in phraseology. 81st Congress, House Report No. 557.

REFERENCES IN TEXT

Presidential Proclamation No. 5928, referred to in subsec. (d), is set out under section 1331 of Title 43, Public Lands.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–241 added subsec. (d).

1986—Pub. L. 99–640 amended section generally. Prior to amendment, section read as follows: ''The captain of the port, Coast Guard district commander, or other officer of the Coast Guard designated by the Commandant thereof, or the Governor of the Panama Canal in the case of the territory and waters of the Canal Zone, shall so control the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, as to insure the safety or security of such United States naval vessels as may be present in his jurisdiction. In territorial waters of the United States where immediate action is required, or

where representatives of the Coast Guard are not present, or not present in sufficient force to exercise effective control of shipping as provided herein, the senior naval officer present in command of any naval force may control the anchorage or movement of any vessel, foreign or domestic, to the extent deemed necessary to insure the safety and security of his command.''

§ 92. Secretary; general powers

For the purpose of executing the duties and functions of the Coast Guard the Secretary may within the limits of appropriations made therefor:

(a) establish, change the limits of, consolidate, discontinue, and re-establish Coast Guard districts;

(b) arrange with the Secretaries of the Army, Navy and Air Force to assign members of the Coast Guard to any school maintained by the Army, Navy, and Air Force, for instruction and training, including aviation schools;

(c) construct, or cause to be constructed, Coast Guard shore establishments;

(d) design or cause to be designed, cause to be constructed, accept as gift, or otherwise acquire vessels, and subject to applicable regulations under subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) dispose of them;

[(e) Repealed. Oct. 31, 1951, ch. 654, § 1(32), 65 Stat. 702]

(f) acquire land or interests in land, including acceptance of gifts thereof, where required for the purpose of carrying out any project or purpose for which an appropriation has been made;

(g) exchange land or interests in land in part or in full payment for such other land or interests in land as may be necessary or desirable, the balance of such part payment to be defrayable in accordance with other provisions of this section;

(h) exercise any of the powers vested by this title in the Commandant in any case in which the Secretary deems it appropriate; and

(i) do any and all things necessary to carry out the purposes of this title.

(Aug. 4, 1949, ch. 393, 63 Stat. 503; Oct. 31, 1951, ch. 654, §§ 1(32), 2(9), 3(3), 65 Stat. 702, 707, 708; Pub. L. 97–295, § 2(4), Oct. 12, 1982, 96 Stat. 1301; Pub. L. 98–557, § 15(a)(3)(D), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 107–217, § 3(c)(1), Aug. 21, 2002, 116 Stat. 1298.)

Historical and Revision Notes

This section grants broad general powers concerning policy matters to the Secretary. Many of the powers are contained in existing law but some are enlarged and some additional powers are added as explained following.

Subsection (a) is based on title 14, U.S.C., 1946 ed., § 95 (Aug. 29, 1916, ch. 417, 39 Stat. 601). Said section has been divided. The provision authorizing the Secretary to man stations seems more appropriately given to the operational head of the Service, the Commandant, and for that reason is incorporated in section 93(c) of this title.

Subsection (b) is based on title 14, U.S.C., 1946 ed., §§ 28, 42 (Aug. 16, 1916, ch. 417, 39 Stat. 601; July 3, 1926, ch. 742, § 11, 44 Stat. 817). These sections were rewritten in order to broaden existing authority in regard to the training of Coast Guard personnel at schools of the other armed forces, thus approaching a practice of war time, and making for economy in the training of Service personnel; such training would be on a basis mutually satisfactory to the Secretaries involved.

Subsection (c) is based on R.S. 4242 and on title 14, U.S.C., 1946 ed., §§ 29, 93, 94, 98a (R.S. 4245, 4249; May 4, 1882, ch. 117, § 2, 22 Stat. 56; Aug. 29, 1916, ch. 417, 39 Stat. 601; June 6, 1940, ch. 257, § 4, 54 Stat. 247; Aug. 6, 1947, ch. 502, 61 Stat. 786). This subsection broadens existing law in that it provides general legislative authority for the construction and disposal of shore establishments of all types including aviation stations.

Subsection (d) is based in part on title 14, U.S.C., 1946 ed., §§ 55, 57, 69, 109, and in part on title 31, U.S.C., 1946 ed., §§ 487, 720, (R.S. 2748, 3618, 3692; June 18, 1878, ch. 265, § 3, 20 Stat. 163; Aug. 29, 1916, ch. 417, 39 Stat. 601). This subsection broadens existing law in that it provides general legislative authority for the design, construction, acquisition by other means, and disposal of vessels.

Subsection (e) is new. It is derived from title 14, U.S.C., 1946 ed., § 31b (June 6, 1941, ch. 177, 55 Stat. 247 [which was originally repealed by act June 30, 1949, ch. 288, title VI, § 602(a)(28), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583]) which provides for the exchange of vehicles, planes, and engines; similar authority in relation to vessels, is granted to the Secretary by this subsection and should prove advantageous to the Government.

Subsection (f) is based on title 14, U.S.C., 1946 ed., § 96 and on title 33, U.S.C., 1946 ed., §§ 729, 730, 731 (Mar. 3, 1875, ch. 130, § 1, 18 Stat. 372; Mar. 4, 1909, ch. 299, 35 Stat. 972; June 17, 1910, ch. 301, § 9, 36 Stat. 538; Mar. 4, 1913, ch. 168, 37 Stat. 1018). This subsection broadens the power of the Secretary to receive as a gift or purchase sites for stations, to include the acquisition of land by any means provided it is for the purpose of executing duties and functions of the Coast Guard.

Subsection (g) is based in part on title 33, U.S.C., 1946 ed., § 732 (Aug. 28, 1916, ch. 414, § 2, 39 Stat. 538; July 11, 1941, ch. 290, § 1, 55 Stat. 584) and grants authority to the Secretary to exchange interests in land as payment or part payment for other interests in land for the purpose of executing the duties and functions of the Coast Guard; this authority, on the basis of past experience, will prove advantageous to the Government.

Subsection (h) is new and merely insures that the Secretary may exercise any of the powers granted to the Commandant in this title.

Subsection (i) is based in part on title 14, U.S.C., 1946 ed., §§ 51, 131 (R.S. 2756, 2758) and insures that the Secretary may do anything necessary to carry out the purposes of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

References in Text

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (d), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title III of the Act is classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Tables.

Amendments

2002—Subsec. (d). Pub. L. 107–217 inserted ''subtitle I of title 40 and title III of'' before ''the Federal Property and Administrative Services Act of 1949'' and substituted ''(41 U.S.C. 251 et seq.)'' for ''(40 U.S.C. 471 et seq.)''.

1984—Subsec. (b). Pub. L. 98–557 substituted reference to members for reference to officers and enlisted men.

1982—Subsec. (d). Pub. L. 97–295 substituted ''(40 U.S.C. 471 et seq.)'' for '', as amended,'' after ''Act of 1949''.

1951—Subsec. (c). Act Oct. 31, 1951, § 3(3), struck out provision relating to sale or other disposition of unsuitable or unserviceable shore establishments, and disposition of the net monies received therefrom.

Subsec. (d). Act Oct. 31, 1951, §2(9), inserted reference to applicable regulations of the Federal Property and Administrative Services Act of 1949, as amended, and struck out requirement that net monies received from the disposition of vessels be covered into the Treasury.

Subsec. (e). Act Oct. 31, 1951, §1(32), repealed subsec. (e) which empowered the Secretary to exchange vessels and parts thereof in part payment for new vessels.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

IMPLEMENTATION OF INTERNATIONAL AGREEMENTS

Pub. L. 109–241, title VIII, §801, July 11, 2006, 120 Stat. 562, provided that: ''In consultation with appropriate Federal agencies, the Secretary of the department in which the Coast Guard is operating shall work with the responsible officials and agencies of other nations to accelerate efforts at the International Maritime Organization to enhance oversight and enforcement of security, environmental, and other agreements adopted within the International Maritime Organization by flag States on whom such agreements are binding, including implementation of—

''(1) a code outlining flag State responsibilities and obligations;

''(2) an audit regime for evaluating flag State performance;

''(3) measures to ensure that responsible organizations, acting on behalf of flag States, meet established performance standards; and

''(4) cooperative arrangements to improve enforcement on a bilateral, regional, or international basis.''

VOLUNTARY MEASURES FOR REDUCING POLLUTION FROM RECREATIONAL BOATS

Pub. L. 109–241, title VIII, §802, July 11, 2006, 120 Stat. 563, provided that: ''In consultation with appropriate Federal, State, and local government agencies, the Secretary of the department in which the Coast Guard is operating shall undertake outreach programs for educating the owners and operators of boats using two-stroke engines about the pollution associated with such engines and support voluntary programs that reduce such pollution and encourage the early replacement of older two-stroke engines.''

GREAT LAKES LIGHTHOUSES

Pub. L. 107–295, title III, §345, Nov. 25, 2002, 116 Stat. 2106, provided that:

''(a) FINDINGS.—The Congress finds the following:

''(1) The Great Lakes are home to more than 400 lighthouses. One hundred and twenty of these maritime landmarks are in the State of Michigan.

''(2) Lighthouses are an important part of Great Lakes culture and stand as a testament to the importance of shipping in the region's political, economic, and social history.

''(3) Advances in navigation technology have made many Great Lakes lighthouses obsolete. In Michigan alone, approximately 70 lighthouses will be designated as excess property of the Federal Government and will be transferred to the General Services Administration for disposal.

''(4) Unfortunately, the Federal property disposal process is confusing, complicated, and not well-suited to disposal of historic lighthouses or to facilitate transfers to nonprofit organizations. This is especially troubling because, in many cases, local nonprofit historical organizations have dedicated tremendous resources to preserving and maintaining Great Lakes lighthouses.

''(5) If Great Lakes lighthouses disappear, the public will be unaware of an important chapter in Great Lakes history.

''(6) The National Trust for Historic Preservation has placed Michigan lighthouses on their list of Most Endangered Historic Places.

''(b) ASSISTANCE FOR GREAT LAKES LIGHTHOUSE PRESERVATION EFFORTS.—The Secretary of the department in which the Coast Guard is operating, may—

''(1) continue to offer advice and technical assistance to organizations in the Great Lakes region that are dedicated to lighthouse stewardship; and

''(2) promptly release information regarding the timing of designations of Coast Guard lighthouses on the Great Lakes as excess to the needs of the Coast Guard, to enable those organizations to mobilize and be prepared to take appropriate action with respect to the disposal of those properties.''

VHF COMMUNICATIONS SERVICES

Pub. L. 107–295, title IV, §406, Nov. 25, 2002, 116 Stat. 2116, provided that:

''(a) The Secretary of the department in which the Coast Guard is operating may authorize a person providing commercial VHF communications services to place commercial VHF communications equipment on real property under the administrative control of the Coast Guard (including towers) subject to any terms agreed to by the parties. The Secretary and that commercial VHF communications service provider also may enter into an agreement providing for VHF communications services to the Coast Guard (including digital selective calling and radio direction finding services) at a discounted rate or price based on providing such access to real property under the administrative control of the Coast Guard.

''(b) Commercial VHF communication equipment placed on real property under the administrative control of the Coast Guard under this section shall not interfere in any manner with any current or future Coast Guard communication equipment.

''(c) Nothing in this section shall affect the rights or obligations of the United States under section 704(c) of the Telecommunications Act of 1996 [Pub. L. 104–104] (47 U.S.C. 332 note) with respect to the availability of property or under section 359(d) of the Communications Act of 1934 (47 U.S.C. 357(d)) with respect to charges for transmission of distress messages.''

PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS; NOTICE TO RECIPIENTS OF ASSISTANCE

Pub. L. 104–324, title XI, §1127, Oct. 19, 1996, 110 Stat. 3983, provided that:

''(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act [see Tables for classification] should be American-made.

''(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the official responsible for providing the assistance, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.''

COAST GUARD VESSEL DESIGN

Pub. L. 101–380, title IV, §4203, Aug. 18, 1990, 104 Stat. 532, provided that: ''The Secretary shall ensure that vessels designed and constructed to replace Coast Guard buoy tenders are equipped with oil skimming systems that are readily available and operable, and that complement the primary mission of servicing aids to navigation.''

AUTHORIZATION OF JUNIOR RESERVE OFFICERS TRAINING PROGRAM PILOT PROGRAM

Pub. L. 101–225, title II, §204, Dec. 12, 1989, 103 Stat. 1911, provided that:

''(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating (hereinafter in this section referred to as the 'Secretary') may carry out a pilot program to establish and maintain a junior reserve officers training program in cooperation with the Dade County Public School System of Dade County, Florida, as part of the Maritime and Science Technology Academy established by that school system (hereinafter in this section referred to as the 'Academy').

''(b) PROGRAM REQUIREMENTS.—A pilot program carried out by the Secretary under this section—

''(1) shall be known as the 'Claude Pepper Junior Reserve Officers Training Program', and

''(2) shall provide to students at the Academy—

''(A) instruction in subject areas relating to operations of the Coast Guard; and

''(B) training in skills which are useful and appropriate for a career in the Coast Guard.

''(c) PROVISION OF ADDITIONAL SUPPORT.—To carry out a pilot program under this section, the Secretary may provide to the Academy—

''(1) assistance in course development, instruction, and other support activities;

''(2) commissioned, warrant, and petty officers of the Coast Guard to serve as administrators and instructors; and

''(3) necessary and appropriate course materials, equipment, and uniforms.

''(d) EMPLOYMENT OF RETIRED COAST GUARD PERSONNEL.—

''(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the Secretary may authorize the Academy to employ as administrators and instructors for the pilot program retired Coast Guard and Coast Guard Reserve commissioned, warrant, and petty officers who request that employment and who are approved by the Secretary and the Academy.

''(2) AUTHORIZED PAY.—(A) Retired members employed under paragraph (1) of this subsection are entitled to receive their retired or retainer pay and an additional amount of not more than the difference between—

''(i) the amount the individual would be paid as pay and allowance if they were considered to have been ordered to active duty during that period of employment; and

''(ii) the amount of retired pay the individual is entitled to receive during that period.

''(B) The Secretary shall pay to the Academy an amount equal to one half of the amount described in subparagraph (A) of this paragraph, from funds appropriated for that purpose.

''(C) Notwithstanding any other law, while employed under this subsection, an individual is not considered to be on active duty or inactive duty training.''

CONSIDERATION OF MARITIME ADMINISTRATION VESSELS

Pub. L. 101–225, title II, § 213, Dec. 12, 1989, 103 Stat. 1914, provided that: ''Before acquiring a vessel for use by the Coast Guard, the Secretary of Transportation or the Commandant of the Coast Guard, as appropriate, shall review the inventory of vessels acquired by the Secretary or the Secretary of Commerce as the result of a default under title XI of the Merchant Marine Act, 1936 ([former] 46 App. U.S.C. 1271–1279c) [see 46 U.S.C. 53701 et seq.], to determine whether any of those vessels are suitable for use by the Coast Guard.''

LIFESAVING EQUIPMENT ON PASSENGER FERRIES

Section 10 of Pub. L. 98–557 provided that: ''The Secretary of the department in which the Coast Guard is operating shall proceed vigorously with efforts to develop improved lifesaving equipment for use on passenger ferries.''

LEASING OF EXISTING HOUSING FOR ASSIGNMENT AS PUBLIC QUARTERS TO MILITARY PERSONNEL AND DEPENDENTS

Pub. L. 89–381, § 2, Mar. 30, 1966, 80 Stat. 97, during fiscal years 1967 through and including 1968, authorized the Secretary of the Department in which the Coast Guard was operating to lease existing housing facilities at or near Coast Guard installations in the United States and Puerto Rico for assignment as public quarters to military personnel and their dependents.

AIRCRAFT

Provisions specifying the maximum number of aircraft on hand at any one time, exclusive of planes and parts stored to meet future attrition, were contained in the following appropriation acts:

Pub. L. 105–66, title I, Oct. 27, 1997, 111 Stat. 1426.
Pub. L. 104–205, title I, Sept. 30, 1996, 110 Stat. 2953.
Pub. L. 104–50, title I, Nov. 15, 1995, 109 Stat. 438.
Pub. L. 103–331, title I, Sept. 30, 1994, 108 Stat. 2473.
Pub. L. 103–122, title I, Oct. 27, 1993, 107 Stat. 1201.
Pub. L. 102–388, title I, Oct. 6, 1992, 106 Stat. 1523.
Pub. L. 102–143, title I, Oct. 28, 1991, 105 Stat. 920.
Pub. L. 101–516, title I, Nov. 5, 1990, 104 Stat. 2158.
Pub. L. 101–164, title I, Nov. 21, 1989, 103 Stat. 1071.
Pub. L. 100–457, title I, Sept. 30, 1988, 102 Stat. 2126.
Pub. L. 100–202, § 101(*l*) [title I], Dec. 22, 1987, 101 Stat. 1329–358, 1329–359.
Pub. L. 99–500, § 101(*l*) [H.R. 5205, title I], Oct. 18, 1986, 100 Stat. 1783–308, and Pub. L. 99–591, § 101(*l*), Oct. 30, 1986, 100 Stat. 3341–308.
Pub. L. 99–190, § 101(e) [title I], Dec. 19, 1985, 99 Stat. 1267, 1269.
Pub. L. 98–473, title I, § 101(i) [title I], Oct. 12, 1984, 98 Stat. 1944, 1945.
Pub. L. 98–78, title I, Aug. 15, 1983, 97 Stat. 454.
Pub. L. 97–369, title I, Dec. 18, 1982, 96 Stat. 1766.
Pub. L. 97–102, title I, Dec. 23, 1981, 95 Stat. 1443.
Pub. L. 96–400, title I, Oct. 9, 1980, 94 Stat. 1681.
Pub. L. 96–131, title I, Nov. 30, 1979, 93 Stat. 1023.
Pub. L. 95–335, title I, Aug. 4, 1978, 92 Stat. 435.
Pub. L. 95–85, title I, Aug. 2, 1977, 91 Stat. 402.
Pub. L. 94–387, title I, Aug. 14, 1976, 90 Stat. 1172.
Pub. L. 94–134, title I, Nov. 24, 1975, 89 Stat. 696.
Pub. L. 93–391, title I, Aug. 28, 1974, 88 Stat. 769.
Pub. L. 93–98, title I, Aug. 16, 1973, 87 Stat. 330.
Pub. L. 93–398, title I, Aug. 22, 1972, 86 Stat. 581.
Pub. L. 92–74, title I, Aug. 10, 1971, 85 Stat. 202.
Pub. L. 91–168, title I, Dec. 26, 1969, 83 Stat. 454.
Pub. L. 90–464, title I, Aug. 8, 1968, 82 Stat. 654.
Pub. L. 90–112, title II, Oct. 23, 1967, 81 Stat. 312.
Pub. L. 89–474, title I, June 29, 1966, 80 Stat. 223.
Pub. L. 89–57, title I, June 30, 1965, 79 Stat. 197.
Pub. L. 88–392, title I, Aug. 1, 1964, 78 Stat. 369.
Pub. L. 88–39, title I, June 13, 1963, 77 Stat. 59.
Pub. L. 87–575, title I, Aug. 6, 1962, 76 Stat. 311.
Pub. L. 87–159, title I, Aug. 21, 1961, 75 Stat. 395.
Pub. L. 86–561, title I, June 30, 1960, 74 Stat. 285.
Pub. L. 86–39, title I, June 11, 1959, 73 Stat. 67.
Pub. L. 85–354, title I, Mar. 28, 1958, 72 Stat. 62.
Pub. L. 85–37, title I, May 27, 1957, 71 Stat. 37.
Apr. 2, 1956, ch. 161, title I, 70 Stat. 93.
June 1, 1955, ch. 113, title I, 69 Stat. 74.
May 28, 1954, ch. 242, title I, 68 Stat. 146.
June 18, 1953, ch. 132, title I, 67 Stat. 69.
June 30, 1952, ch. 523, title I, 66 Stat. 291.
Aug. 11, 1951, ch. 301, title I, 65 Stat. 185.
Sept. 6, 1950, ch. 896, Ch. IV, title I, 64 Stat. 639.
June 30, 1949, ch. 286, title I, 63 Stat. 367.
June 19, 1948, ch. 558, title I, 62 Stat. 563.
July 1, 1947, ch. 186, title I, 61 Stat. 227.
July 12, 1946, ch. 569, § 1, 60 Stat. 531.

APPROPRIATION AUTHORIZATION FOR CONSTRUCTION OF SHORE OR OFFSHORE ESTABLISHMENTS OR FOR PROCUREMENT OF VESSELS OR AIRCRAFT

Pub. L. 88–45, § 1, June 21, 1963, 77 Stat. 68, provided that after fiscal year 1964, funds could not be appropriated to or for the use of the Coast Guard for the construction of shore or offshore establishments, or for the procurement of vessels or aircraft, unless the appropriation of such funds had been authorized by legislation enacted after Dec. 31, 1963, prior to repeal by Pub. L. 99–640, § 10(a)(9), Nov. 10, 1986, 100 Stat. 3549.

§ 93. Commandant; general powers

(a) For the purpose of executing the duties and functions of the Coast Guard the Commandant may:

(1) maintain water, land, and air patrols, and ice-breaking facilities;

(2) establish and prescribe the purpose of, change the location of, consolidate, discontinue, re-establish, maintain, operate, and repair Coast Guard shore establishments;

(3) assign vessels, aircraft, vehicles, aids to navigation, equipment, appliances, and supplies to Coast Guard districts and shore establishments, and transfer any of the foregoing from one district or shore establishment to another;

(4) conduct experiments, investigate, or cause to be investigated, plans, devices, and inventions relating to the performance of any Coast Guard function and cooperate and coordinate such activities with other Government agencies and with private agencies;

(5) conduct any investigations or studies that may be of assistance to the Coast Guard in the performance of any of its powers, duties, or functions;

(6) collect, publish, and distribute information concerning Coast Guard operations;

(7) conduct or make available to personnel of the Coast Guard such specialized training and courses of instruction, including correspondence courses, as may be necessary or desirable for the good of the service;

(8) design or cause to be designed, cause to be constructed, accept as gift, or otherwise acquire patrol boats and other small craft, equip, operate, maintain, supply, and repair such patrol boats, other small craft, aircraft, and vehicles, and subject to applicable regulations under subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) dispose of them;

(9) acquire, accept as gift, maintain, repair, and discontinue aids to navigation, appliances, equipment, and supplies;

(10) equip, operate, maintain, supply, and repair Coast Guard districts and shore establishments;

(11) establish, equip, operate, and maintain shops, depots, and yards for the manufacture and construction of aids to navigation, equipment, apparatus, vessels, vehicles, and aircraft not normally or economically obtainable from private contractors, and for the maintenance and repair of any property used by the Coast Guard;

(12) accept and utilize, in times of emergency in order to save life or protect property, such voluntary services as may be offered to the Coast Guard;

(13) rent or lease, under such terms and conditions as are deemed advisable, for a period not exceeding five years, such real property under the control of the Coast Guard as may not be required for immediate use by the Coast Guard, the monies received from any such rental or lease, less amount of expenses incurred (exclusive of governmental personal services), to be deposited in the Treasury;

(14) grant, under such terms and conditions as are deemed advisable, permits, licenses, easements, and rights-of-way over, across, in, and upon lands under the control of the Coast Guard when in the public interest and without substantially injuring the interests of the United States in the property thereby affected;

(15) establish, install, abandon, re-establish, reroute, operate, maintain, repair, purchase, or lease such telephone and telegraph lines and cables, together with all facilities, apparatus, equipment, structures, appurtenances, accessories, and supplies used or useful in connection with the installation, operation, maintenance, or repair of such lines and cables, including telephones in residences leased or owned by the Government of the United States when appropriate to assure efficient response to extraordinary operational contingencies of a limited duration, and acquire such real property rights of way, easements, or attachment privileges as may be required for the installation, operation, and maintenance of such lines, cables, and equipment;

(16) establish, install, abandon, reestablish, change the location of, operate, maintain, and repair radio transmitting and receiving stations;

(17) provide medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities;

(18) accept, under terms and conditions the Commandant establishes, the service of an individual ordered to perform community service under the order of a Federal, State, or municipal court;

(19) notwithstanding any other law, enter into cooperative agreements with States, local governments, non-governmental organizations, and individuals, to accept and utilize voluntary services for the maintenance and improvement of natural and historic resources on, or to benefit natural and historic research on, Coast Guard facilities, subject to the requirement that—

(A) the cooperative agreements shall each provide for the parties to contribute funds or services on a matching basis to defray the costs of such programs, projects, and activities under the agreement; and

(B) a person providing voluntary services under this subsection shall not be considered a Federal employee except for purposes of chapter 81 of title 5, United States Code, with respect to compensation for work-related injuries, and chapter 171 of title 28, United States Code, with respect to tort claims;

(20) enter into cooperative agreements with other Government agencies and the National Academy of Sciences;

(21) require that any member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment to any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) request that all information contained in the National Driver Register pertaining to the individual, as described in section 30304(a) of title 49, be made available to

the Commandant under section 30305(a) of title 49, may receive that information, and upon receipt, shall make the information available to the individual;

(22) provide for the honorary recognition of individuals and organizations that significantly contribute to Coast Guard programs, missions, or operations, including State and local governments and commercial and nonprofit organizations, and pay for, using any appropriations or funds available to the Coast Guard, plaques, medals, trophies, badges, and similar items to acknowledge such contribution (including reasonable expenses of ceremony and presentation);

(23) rent or lease, under such terms and conditions as are considered by the Secretary to be advisable, commercial vehicles to transport the next of kin of eligible retired Coast Guard military personnel to attend funeral services of the service member at a national cemetery; and

(24) after informing the Secretary, make such recommendations to the Congress relating to the Coast Guard as the Commandant considers appropriate.

(b)(1) Notwithstanding subsection (a)(14), a lease described in paragraph (2) of this subsection may be for a term of up to 20 years.

(2) A lease referred to in paragraph (1) is a lease—

(A) to the United States Coast Guard Academy Alumni Association for the construction of an Alumni Center on the grounds of the United States Coast Guard Academy; or

(B) to an entity with which the Commandant has a cooperative agreement under section 4(e) of the Ports and Waterways Safety Act, and for which a term longer than 5 years is necessary to carry out the agreement.

(Aug. 4, 1949, ch. 393, 63 Stat. 504; Aug. 3, 1950, ch. 536, § 2, 64 Stat. 406; Oct. 31, 1951, ch. 654, §§ 1(33), 2(10), 4(1), 65 Stat. 702, 707, 709; Pub. L. 94–546, § 1(9), Oct. 18, 1976, 90 Stat. 2519; Pub. L. 97–136, § 6(d), Dec. 29, 1981, 95 Stat. 1706; Pub. L. 97–276, § 143, Oct. 2, 1982, 96 Stat. 1199; Pub. L. 97–295, § 2(4), Oct. 12, 1982, 96 Stat. 1301; Pub. L. 97–322, title I, § 115(c), Oct. 15, 1982, 96 Stat. 1586; Pub. L. 102–241, § 7, Dec. 19, 1991, 105 Stat. 2212; Pub. L. 103–206, title II, § 202, title III, § 316, Dec. 20, 1993, 107 Stat. 2420, 2426; Pub. L. 104–324, title II, § 207(a), Oct. 19, 1996, 110 Stat. 3908; Pub. L. 105–383, title II, §§ 202, 203, Nov. 13, 1998, 112 Stat. 3414, 3415; Pub. L. 107–217, § 3(c)(2), Aug. 21, 2002, 116 Stat. 1298; Pub. L. 108–293, title II, §§ 201, 217, Aug. 9, 2004, 118 Stat. 1031, 1038; Pub. L. 109–241, title IX, § 901(a), (c), July 11, 2006, 120 Stat. 564.)

HISTORICAL AND REVISION NOTES

This section grants powers to the Commandant concerning, in general, operations within the Service and the internal functioning of the Service. Many of the powers are contained in existing law, but some are enlarged, and some additional powers are added as explained following.

Subsection (a) is derived from title 14, U.S.C., 1946 ed., § 53, and title 34, U.S.C., 1946 ed., § 471 (R.S. 1536). The authority to order vessels to cruise along the coasts should be in the operational head of the Service, and not in the President. This section is changed to cover adequately the necessary present day cruising and patrolling.

Subsection (b) is derived from R.S. 4242 and title 14, U.S.C., 1946 ed., §§ 29, 93, 94, 95, 97, 98a (R.S. 4245, 4249; May 4, 1882, ch. 117, §§ 2, 3, 22 Stat. 56; Aug. 29, 1916, ch. 417, 39 Stat. 601; Aug. 6, 1947, ch. 502, 61 Stat. 786; June 6, 1940, ch. 257, § 4, 54 Stat. 247), and specifically grants to the Commandant authority in regard to the establishment, discontinuance, and change of Coast Guard shore establishments other than Coast Guard districts. This power must exist inherently in order for the Service to function efficiently.

Subsection (c) is derived from title 14, U.S.C., 1946 ed., §§ 54, 97, 112 (May 4, 1882, ch. 117, § 3, 22 Stat. 56; May 30, 1908, ch. 231, 35 Stat. 553; Apr. 21, 1910, ch. 182, § 2, 36 Stat. 326), and specifically grants to the Commandant authority in regard to the assignment of vessels, vehicles, aids to navigation, and other equipment. This power is inherent to the proper functioning of any Service.

Subsection (d) is based on title 14, U.S.C., 1946 ed., § 91 (June 18, 1878, ch. 265, § 7, 20 Stat. 164; June 10, 1921, ch. 18, § 304, 42 Stat. 24; July 3, 1926, ch. 742, § 9, 44 Stat. 817). Said section has been divided. The part dealing with investigation of plans and inventions is covered in this subsection in broader terms, and the other parts are covered in general terms in section 632 of this title.

Subsection (e) is based on title 14, U.S.C., 1946 ed., § 111 (June 18, 1878, ch. 265, § 9, 20 Stat. 164). This section has been rewritten to broaden the authority to include any investigation or study that may be of assistance to the Coast Guard, the limitation as to investigation of shipwrecks having been eliminated.

Subsection (f) is new and is intended to give legislative recognition to the importance of disseminating information by the Coast Guard for the promotion of safety at sea, life-saving techniques, and other Coast Guard activities.

Subsection (g) is new and provides for the training of Coast Guard personnel at other than schools or institutions of the other armed forces. Such training is essential and has been carried on under the authority of appropriation acts for many years.

Subsection (h) is based in part on title 14, U.S.C., 1946 ed., §§ 69, 108, 109, (R.S. 2748; June 20, 1874, ch. 344, § 9, 18 Stat. 127; June 18, 1878, ch. 265, § 3, 20 Stat. 163), and is intended to complement the authority granted to the Secretary in sec. 92(d) of this title granting similar authority to the Commandant as to smaller craft.

Subsection (i) is based in part on title 14, U.S.C., §§ 108, 109, and on title 33, U.S.C., 1946 ed., § 752 (June 20, 1874, ch. 344, § 9, 18 Stat. 127; June 18, 1878, ch. 265, § 3, 20 Stat. 163; Mar. 4, 1913, ch. 168, 37 Stat. 10183, and grants power to the Commandant to acquire and dispose of various equipment and supplies. The authority with respect to the acceptance of such equipment as a gift is new.

Subsection (j) is new and grants power to the Commandant to operate and maintain shore establishments; previously such authority has been inferred from statutes providing for the establishment of shore stations; again such authority is inherent to the functioning of any Service, and this section will provide no greater authority than has been exercised in the past.

Subsection (k) is based on title 14, U.S.C., 1946 ed., § 31b (June 6, 1941, ch. 177, 55 Stat. 247 [which was originally repealed by act June 30, 1949, ch. 288, title VI, § 602(a)(28), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583]). The primary authority is granted to the Commandant as well as to the Secretary inasmuch as such exchange seems to be an operational matter and the items which may be exchanged have been enlarged by the addition of aids to navigation, appliances, equipment, and supplies.

Inasmuch as the act cited above applies to the Navy as well as the Coast Guard it is not scheduled for repeal but is being amended by section 13 of this act to eliminate reference to the Coast Guard.

Subsection (*l*) is new and is deemed desirable in order to give legislative authority for existing yards, and for the procurement of needed equipment and material in case such is not normally or economically obtainable from private contractors.

Subsection (m) is based on title 14, U.S.C., 1946 ed., §§110, 192 (June 20, 1874, ch. 344, §6, 18 Stat. 127; June 18, 1878, ch. 265, §10, 20 Stat. 165; July 3, 1926, ch. 742, §9, 44 Stat. 817). The power to accept volunteer services is enlarged to include all services offered in time of emergency, to save life or protect property, and the restrictive provisions relating to lifeboat stations only have been eliminated.

Subsection (n) is new and grants authority to the Commandant to lease real property under the control of the Coast Guard, when not immediately needed in Coast Guard operations. Such authority will be advantageous to the Government, on the basis of past experience.

Subsection (*o*) is new and is supplementary to subsection (n) of this section. It grants further authority to the Commandant permitting him to grant minor interests in land which is under control of the Coast Guard. This will avoid the necessity of special acts of Congress in each of such instances.

Subsection (p) is new and is necessary to give proper authority for the maintenance of networks of wires and cables, in some cases over or along private property or public highways. These networks are in existence at the present time and are essential for the Service to carry out its functions.

Subsection (q) is new and is necessary in order to provide clear authority for the maintenance of radio stations which are essential to Coast Guard functions.

Changes were made in phraseology. 81st Congress, House Report No. 557.

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a)(8), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title III of the Act is classified generally to subchapter IV (§251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Tables.

Section 4(e) of the Ports and Waterways Safety Act, referred to in subsec. (b)(2)(B), is section 4(e) of Pub. L. 92–340, which is classified to section 1223(e) of Title 33, Navigation and Navigable Waters.

AMENDMENTS

2006—Subsec. (a)(19). Pub. L. 109–241, §901(a), redesignated subpars. (1) and (2) as (A) and (B), respectively.

Subsec. (a)(24). Pub. L. 109–241, §901(c), redesignated par. (y) as (24).

2004—Pub. L. 108–293, §201, designated existing provisions as subsec. (a), redesignated former subsecs. (a) to (j) and (*l*) to (w) as pars. (1) to (23), respectively, of subsec. (a), substituted semicolon for comma at end of par. (18), and added subsec. (b).

Pub. L. 108–293, §217, which directed amendment of this section by striking out ''and'' after semicolon at end of ''paragraph (w)'', substituting ''; and'' for period at end of ''paragraph (x)'', and adding a paragraph designated ''(y)'' at the end, was executed to this section prior to the amendment by Pub. L. 108–293, §201, to reflect the probable intent of Congress. See above.

2002—Subsec. (h). Pub. L. 107–217 inserted ''subtitle I of title 40 and title III of'' before ''the Federal Property and Administrative Services Act of 1949'' and substituted ''(41 U.S.C. 251 et seq.)'' for ''(40 U.S.C. 471 et seq.)''.

1998—Subsec. (w). Pub. L. 105–383, §202, added subsec. (w).

Subsec. (x). Pub. L. 105–383, §203, added subsec. (x).

1996—Subsec. (v). Pub. L. 104–324 added subsec. (v).

1993—Subsec. (t). Pub. L. 103–206, §202, added subsec. (t).

Subsec. (u). Pub. L. 103–206, §316, added subsec. (u).

1991—Subsec. (s). Pub. L. 102–241 added subsec. (s).

1982—Subsec. (h). Pub. L. 97–295 substituted ''(40 U.S.C. 471 et seq.)'' for '', as amended,'' after ''Act of 1949''.

Subsec. (r). Pub. L. 97–276 and Pub. L. 97–322 made identical amendments adding subsec. (r) relating to medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities.

1981—Subsec. (p). Pub. L. 97–136, inserted ''including telephones in residences leased or owned by the Government of the United States when appropriate to assure efficient response to extraordinary operational contingencies of a limited duration,'' after ''of such lines and cables,''.

1976—Subsec. (n). Pub. L. 94–546 substituted ''to be deposited in the Treasury'' for ''to be covered into the Treasury''.

1951—Subsec. (h). Act Oct. 31, 1951, §2(10), inserted reference to applicable regulations of the Federal Property and Administrative Services Act of 1949, as amended, and struck out the requirement that net monies received from the disposition of patrol boats, etc., be covered into the Treasury.

Subsec. (i). Act Oct. 31, 1951, §4(1), inserted provision permitting discontinuance of aids to navigation, etc., and struck out provision permitting discontinuance or other disposition of obsolete, unsuitable, or unserviceable aids to navigation, etc., and the requirement that the net monies received from such disposition be covered into the Treasury.

Subsec. (k). Act Oct. 31, 1951, §1(33), repealed subsec. (k) which empowered the Commandant to exchange aircraft, vehicles, and parts thereof, and obsolete, unsuitable, or unserviceable machines, tools, aids to navigation, appliances, equipment, and supplies in part payment for new items of the same or similar character.

1950—Subsec. (*o*). Act Aug. 3, 1950, struck out ''and'' after the semicolon.

Subsec. (p). Act Aug. 3, 1950, substituted ''; and'' for the period at end.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

MARINE VESSEL AND COLD WATER SAFETY EDUCATION

Pub. L. 109–241, title IV, §405, July 11, 2006, 120 Stat. 535, provided that: ''The Coast Guard shall continue cooperative agreements and partnerships with organizations in effect on the date of enactment of this Act [July 11, 2006] that provide marine vessel safety training and cold water immersion education and outreach programs for fishermen and children.''

REDISTRICTING NOTIFICATION REQUIREMENT

Pub. L. 108–293, title II, §215, Aug. 9, 2004, 118 Stat. 1038, provided that: ''The Commandant shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate at least 180 days before—

''(1) implementing any plan to reduce the number of, change the location of, or change the geographic area covered by any existing Coast Guard Districts; or

''(2) permanently transferring more than 10 percent of the personnel or equipment from a district office where such personnel or equipment is based.''

INNOVATIVE CONSTRUCTION ALTERNATIVES

Pub. L. 108–293, title II, §222, Aug. 9, 2004, 118 Stat. 1040, provided that: ''The Commandant of the Coast Guard may consult with the Office of Naval Research and other Federal agencies with research and development programs that may provide innovative construction alternatives for the Integrated Deepwater System.''

ICEBREAKING SERVICES

Pub. L. 109–241, title II, § 210, July 11, 2006, 120 Stat. 523, provided that:

''(a) OPERATION AND MAINTENANCE PLAN.—Not later than 90 days after the date of enactment of this Act [July 11, 2006], the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan—

''(1) for operation and maintenance after fiscal year 2006 of the Coast Guard polar icebreakers POLAR STAR, POLAR SEA, and HEALY, that does not rely on the transfer of funds to the Coast Guard by any other Federal agency; and

''(2) for the long-term recapitalization of these assets.

''(b) NECESSARY MEASURES.—The Secretary shall take all necessary measures to ensure that the Coast Guard maintains, at a minimum, its current vessel capacity for carrying out ice breaking in the Arctic and Antarctic, Great Lakes, and New England regions, including the necessary funding for operation and maintenance of such vessels, until it has implemented the long-term recapitalization of the Coast Guard polar icebreakers POLAR STAR, POLAR SEA, and HEALY in accordance with the plan submitted under subsection (a).

''(c) REIMBURSEMENT.—Nothing in this section shall preclude the Secretary from seeking reimbursement for operation and maintenance costs of such polar icebreakers from other Federal agencies and entities, including foreign countries, that benefit from the use of the icebreakers.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 2006 to the Secretary of the department in which the Coast Guard is operating $100,000,000 to carry out this section with respect to the polar icebreakers referred to in subsection (a).''

Pub. L. 107–295, title IV, § 429, Nov. 25, 2002, 116 Stat. 2127, provided that: ''The Commandant of the Coast Guard shall not plan, implement, or finalize any regulation or take any other action which would result in the decommissioning of any WYTL-class harbor tugs unless and until the Commandant certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that sufficient replacement capability has been procured by the Coast Guard to remediate any degradation in current icebreaking services that would be caused by such decommissioning.''

FISHING VESSEL SAFETY TRAINING

Pub. L. 107–295, title IV, § 430, Nov. 25, 2002, 116 Stat. 2128, provided that:

''(a) IN GENERAL.—The Commandant of the Coast Guard may provide support, with or without reimbursement, to an entity engaged in fishing vessel safety training, including—

''(1) assistance in developing training curricula;

''(2) use of Coast Guard personnel, including active duty members, members of the Coast Guard Reserve, and members of the Coast Guard Auxiliary, as temporary or adjunct instructors;

''(3) sharing of appropriate Coast Guard informational and safety publications; and

''(4) participation on applicable fishing vessel safety training advisory panels.

''(b) NO INTERFERENCE WITH OTHER FUNCTIONS.—In providing support under subsection (a), the Commandant shall ensure that the support does not interfere with any Coast Guard function or operation.''

CONVEYANCE OF LIGHTHOUSES; NOTIFICATION

Pub. L. 105–383, title IV, § 416(d), Nov. 13, 1998, 112 Stat. 3437, provided that: ''Not less than 1 year prior to reporting to the General Services Administration that a lighthouse or light station eligible for listing under the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) and under the jurisdiction of the Coast Guard is excess to the needs of the Coast Guard, the Commandant of the Coast Guard shall notify the State in which the lighthouse or light station is located, (including the State Historic Preservation Officer, if any) the appropriate political subdivision of that State, and any lighthouse, historic, or maritime preservation organizations in that State, that such property is excess to the needs of the Coast Guard.''

SMALL WATERPLANE AREA TWIN HULL (SWATH) TECHNOLOGY

Pub. L. 105–383, title IV, § 425(a), Nov. 13, 1998, 112 Stat. 3441, provided that: ''The Commandant of the Coast Guard shall, within 18 months after the date of the enactment of this Act [Nov. 13, 1998], report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on the applicability of Small Waterplane Area Twin Hull (SWATH) technology, including concepts developed by the United States Office of Naval Research, to the design of Coast Guard vessels.''

§ 94. Oceanographic research

The Coast Guard shall conduct such oceanographic research, use such equipment or instruments, and collect and analyze such oceanographic data, in cooperation with other agencies of the Government, or not, as may be in the national interest.

(Added Pub. L. 87–396, § 1, Oct. 5, 1961, 75 Stat. 827.)

§ 95. Special agents of the Coast Guard Investigative Service law enforcement authority

(a)(1) A special agent of the Coast Guard Investigative Service designated under subsection (b) has the following authority:

(A) To carry firearms.

(B) To execute and serve any warrant or other process issued under the authority of the United States.

(C) To make arrests without warrant for—

(i) any offense against the United States committed in the agent's presence; or

(ii) any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing the felony.

(2) The authorities provided in paragraph (1) shall be exercised only in the enforcement of statutes for which the Coast Guard has law enforcement authority, or in exigent circumstances.

(b) The Commandant may designate to have the authority provided under subsection (a) any special agent of the Coast Guard Investigative Service whose duties include conducting, supervising, or coordinating investigation of criminal activity in programs and operations of the United States Coast Guard.

(c) The authority provided under subsection (a) shall be exercised in accordance with guidelines prescribed by the Commandant and approved by the Attorney General and any other applicable guidelines prescribed by the Secretary of Homeland Security or the Attorney General.

(Added Pub. L. 100–448, § 10(a), Sept. 28, 1988, 102 Stat. 1842; amended Pub. L. 105–383, title II, § 205(a), Nov. 13, 1998, 112 Stat. 3415; Pub. L. 107–296, title XVII, § 1704(a), Nov. 25, 2002, 116 Stat. 2314.)

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

1998—Pub. L. 105–383 substituted ''Special agents of the Coast Guard Investigative Service law enforcement authority'' for ''Civilian agents authorized to carry firearms'' as section catchline and amended text generally. Prior to amendment, text read as follows: ''Under regulations prescribed by the Secretary with the approval of the Attorney General, civilian special agents of the Coast Guard may carry firearms or other appropriate weapons while assigned to official investigative or law enforcement duties.''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

§ 96. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards

A Coast Guard vessel the home port of which is in a State of the United States may not be overhauled, repaired, or maintained in a shipyard outside the United States, other than in the case of voyage repairs.

(Added Pub. L. 104–324, title III, § 311(a), Oct. 19, 1996, 110 Stat. 3920.)

§ 97. Procurement of buoy chain

(a) Except as provided in subsection (b), the Coast Guard may not procure buoy chain—

(1) that is not manufactured in the United States; or

(2) substantially all of the components of which are not produced or manufactured in the United States.

(b) The Coast Guard may procure buoy chain that is not manufactured in the United States if the Secretary determines that—

(1) the price of buoy chain manufactured in the United States is unreasonable; or

(2) emergency circumstances exist.

(Added Pub. L. 104–324, title XI, § 1128(a), Oct. 19, 1996, 110 Stat. 3984.)

§ 98. National Coast Guard Museum

(a) ESTABLISHMENT.—The Commandant may establish a National Coast Guard Museum, on lands which will be federally owned and administered by the Coast Guard, and are located in New London, Connecticut, at, or in close proximity to, the Coast Guard Academy.

(b) LIMITATION ON EXPENDITURES.—(1) Except as provided in paragraph (2), the Secretary shall not expend any appropriated Federal funds for the engineering, design, or construction of any museum established under this section.

(2) The Secretary shall fund the operation and maintenance of the National Coast Guard Museum with nonappropriated and non-Federal funds to the maximum extent practicable. The priority use of Federal operation and maintenance funds should be to preserve and protect historic Coast Guard artifacts.

(c) FUNDING PLAN.—Before the date on which the Commandant establishes a museum under subsection (a), the Commandant shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan for constructing, operating, and maintaining such a museum, including—

(1) estimated planning, engineering, design, construction, operation, and maintenance costs;

(2) the extent to which appropriated, nonappropriated, and non-Federal funds will be used for such purposes, including the extent to which there is any shortfall in funding for engineering, design, or construction; and

(3) a certification by the Inspector General of the department in which the Coast Guard is operating that the estimates provided pursuant to paragraphs (1) and (2) are reasonable and realistic.

(d) AUTHORITY.—The Commandant may not establish a Coast Guard museum except as set forth in this section.

(Added Pub. L. 108–293, title II, § 213(a), Aug. 9, 2004, 118 Stat. 1037.)

CHAPTER 7—COOPERATION WITH OTHER AGENCIES

Sec.
141. Cooperation with other agencies, States, territories, and political subdivisions.
142. State Department.
143. Treasury Department.
144. Department of the Army and Department of the Air Force.
145. Navy Department.
146. United States Postal Service.
147. Department of Commerce.
147a. Department of Health and Human Services.
148. Maritime instruction.
149. Assistance to foreign governments and maritime authorities[1]
150. Coast Guard officers as attachés to missions.
151. Contracts with Government-owned establishments for work and material.
152. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services.

HISTORICAL AND REVISION NOTES

In connection with its maritime police, promoting safety of life and property at sea, and aiding navigation functions, the Coast Guard frequently finds it advisable to utilize the services of other agencies and correlatively, frequently finds its facilities useful to other agencies. This high degree of cooperation, a natural attribute of a producing and servicing agency, is important not only because it greatly promotes the quantity and quality of the services performed, but because the concentration of these functions in one agency results in savings to the Government of man-power, funds, and equipment. In the belief that legislative recognition of and specific power to continue this needed cooperation are desirable, Chapter 7 of this title contains a group of sections on cooperation with designated agencies. This is not meant to be a complete listing of cooperating

[1] So in original. Probably should be followed by a period.

agencies, but rather the designation of the principal ones. In addition, the first section of the chapter deals with availability of Coast Guard personnel and facilities to other agencies and the availability of other agency personnel and facilities to the Coast Guard. 81st Congress, House Report No. 557.

AMENDMENTS

2006—Pub. L. 109–241, title II, § 202(b), July 11, 2006, 120 Stat. 520, substituted ''Assistance to foreign governments and maritime authorities'' for ''Detail of members to assist foreign governments.'' in item 149.

2004—Pub. L. 108–293, title II, § 202(b), Aug. 9, 2004, 118 Stat. 1032, added item 152.

1996—Pub. L. 104–324, title IV, § 405(b), Oct. 19, 1996, 110 Stat. 3924, substituted ''Cooperation with other agencies, States, territories, and political subdivisions'' for ''General'' in item 141.

1984—Pub. L. 98–557, § 15(a)(4)(A)(ii), Oct. 30, 1984, 98 Stat. 2865, substituted ''members'' for ''officers and men'' in item 149.

1982—Pub. L. 97–295, § 2(6)(B), Oct. 12, 1982, 96 Stat. 1301, added item 147a.

1976—Pub. L. 94–546, § 1(12), Oct. 18, 1976, 90 Stat. 2519, substituted ''United States Postal Service'' for ''Post Office Department'' in item 146.

§ 141. Cooperation with other agencies, States, territories, and political subdivisions

(a) The Coast Guard may, when so requested by proper authority, utilize its personnel and facilities (including members of the Auxiliary and facilities governed under chapter 23) to assist any Federal agency, State, Territory, possession, or political subdivision thereof, or the District of Columbia, to perform any activity for which such personnel and facilities are especially qualified. The Commandant may prescribe conditions, including reimbursement, under which personnel and facilities may be provided under this subsection.

(b) The Coast Guard, with the consent of the head of the agency concerned, may avail itself of such officers and employees, advice, information, and facilities of any Federal agency, State, Territory, possession, or political subdivision thereof, or the District of Columbia as may be helpful in the performance of its duties. In connection with the utilization of personal services of employees of state or local governments, the Coast Guard may make payments for necessary traveling and per diem expenses as prescribed for Federal employees by the standardized Government travel regulations.

(Aug. 4, 1949, ch. 393, 63 Stat. 505; Pub. L. 104–324, title IV, § 405(a), Oct. 19, 1996, 110 Stat. 3924.)

HISTORICAL AND REVISION NOTES

This section is based in part on title 33, U.S.C., 1946 ed., § 756 (Mar. 3, 1915, ch. 81, § 6, 38 Stat. 928), and authorizes the Coast Guard to use its personnel and facilities to assist other Government agencies when requested and, correlatively, authorizes the Coast Guard to utilize the personnel and facilities of other agencies. It is believed desirable to have this authority spelled out by statute because in times of emergency, for example floods, it sometimes becomes most advantageous to cooperate in this manner. 81st Congress, House Report No. 557.

AMENDMENTS

1996—Pub. L. 104–324, § 405(a)(1), amended section catchline generally, substituting ''Cooperation with other agencies, States, territories, and political subdivisions'' for ''General''.

Subsec. (a). Pub. L. 104–324, § 405(a)(2), (3), inserted ''(including members of the Auxiliary and facilities governed under chapter 23)'' after ''personnel and facilities'' and ''The Commandant may prescribe conditions, including reimbursement, under which personnel and facilities may be provided under this subsection.'' at end.

MEDICAL EMERGENCY HELICOPTER TRANSPORTATION SERVICES TO CIVILIANS; AUTHORIZATION TO COAST GUARD COMMANDANT

Pub. L. 95–61, § 8, July 1, 1977, 91 Stat. 260, which authorized Coast Guard to assist Department of Health, Education, and Welfare in providing medical emergency helicopter services to civilians, if assistance was provided in areas of regular Coast Guard unit assignment, did not interfere with Coast Guard mission, or increase required Coast Guard operating funds, and further providing that no individual (or his estate) operating within scope of his duties under this section's program would be civilly liable for damage caused incident thereto, was repealed and reenacted as section 147a of this title by Pub. L. 97–295, §§ 2(6)(A), 6(b), Oct. 12, 1982, 96 Stat. 1301, 1314.

§ 142. State Department

The Coast Guard, through the Secretary, may exchange information, through the Secretary of State, with foreign governments and suggest to the Secretary of State international collaboration and conferences on all matters dealing with the safety of life and property at sea, other than radio communication.

(Aug. 4, 1949, ch. 393, 63 Stat. 505.)

HISTORICAL AND REVISION NOTES

Because of the numerous situations in which it is necessary for the Coast Guard to deal with foreign governments, particularly in the field of safety of life and property at sea, the Coast Guard and the State Department agree that a provision such as this is desirable.

The international character of many Coast Guard functions makes it more and more necessary for the Service to be an initiating or participating agency in international collaboration. Examples of international meetings concerned with matters affecting the Coast Guard include those which dealt with the International Rules of the Road, international load lines, the International Code of Signals, safety at sea, and international telecommunications. It is highly desirable that there be a clear-cut legislative expression of Coast Guard cooperation with the State Department on proposed international conferences dealing with various phases of Coast Guard activities, such as aids to navigation, life-saving equipment, navigation and communication equipment other than radio communication, regulation of dangerous cargoes, international rules of the road, safety requirements and equipment of transoceanic aircraft and vessels, and safe manning standards and efficiency of personnel employed on transoceanic aircraft and vessels. Provisions for similar relationship between the Civil Aeronautical Board and the State Department appear in the act of June 23, 1938, as amended, 52 Stat. 984 (title 49, U.S.C., 1946 ed., §§ 425(c), 602). 81st Congress, House Report No. 557.

§ 143. Treasury Department

Commissioned, warrant, and petty officers of the Coast Guard are deemed to be officers of the customs and when so acting shall, insofar as performance of the duties relating to customs laws are concerned, be subject to regulations issued by the Secretary of the Treasury governing officers of the customs.

(Aug. 4, 1949, ch. 393, 63 Stat. 506.)

HISTORICAL AND REVISION NOTES

Based on title 19, U.S.C., 1946 ed., §§1401(*l*), 1709(b) (Aug. 5, 1935, ch. 435, title II, §201, 49 Stat. 521; Aug. 5, 1935, ch. 438, title IV, §401, 49 Stat. 529).

This section will not repeal the sections cited above, but makes further provision that Coast Guard personnel when acting as officers of the customs shall, insofar as enforcing customs laws are concerned, be subject to regulations governing regular officers of the customs. 81st Congress, House Report No. 557.

§144. Department of the Army and Department of the Air Force

(a) The Secretary of the Army or the Secretary of the Air Force at the request of the Secretary may, with or without reimbursement for the cost thereof, as agreed, receive members of the Coast Guard for instruction in any school, including any aviation school, maintained by the Army or the Air Force, and such members shall be subject to the regulations governing such schools.

(b) Officers and enlisted men of the Coast Guard shall be permitted to purchase quartermaster supplies from the Army at the same price as is charged the officers and enlisted men of the Army.

(c) Articles of ordnance property may be sold by the Secretary of the Army to officers of the Coast Guard for their use in the public service in the same manner as these articles are sold to officers of the Army.

(Aug. 4, 1949, ch. 393, 63 Stat. 506; Pub. L. 94–546, §1(10), Oct. 18, 1976, 90 Stat. 2519; Pub. L. 98–557, §15(a)(3)(D), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Subsection (a) is based on title 14, U.S.C., 1946 ed., §28 (Aug. 29, 1916, ch. 417, 39 Stat. 601). Section has been enlarged to include the Air Force as well as the Army, and to include all schools maintained by the Army or Air Force, rather than aviation schools only. Reimbursement is made optional depending upon agreement of the Secretaries.

Subsection (b) is based on title 14, U.S.C., 1946 ed., §31 (Mar. 6, 1920, ch. 94, §1, 41 Stat. 506).

Subsection (c) is based on title 14, U.S.C., 1946 ed., §31a (Mar. 3, 1909, ch. 252, 35 Stat. 751; Apr. 15, 1937, ch. 101, 50 Stat. 65).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–557 substituted reference to members for reference to officers and enlisted men in two places.

1976—Subsec. (a). Pub. L. 94–546, §1(10)(a), substituted ''at the request of the Secretary'' for ''at the request of the Secretary of the Treasury''.

Subsec. (c). Pub. L. 94–546, §1(10)(b), substituted ''Secretary of the Army'' for ''Chief of Ordnance''.

§145. Navy Department

(a) The Secretary of the Navy, at the request of the Secretary may, with or without reimbursement for the cost thereof, as agreed:

(1) build any vessel for the Coast Guard at such Navy yards as the Secretary of the Navy may designate;

(2) receive members of the Coast Guard for instruction in any school, including any aviation school maintained by the Navy, and such members shall be subject to the regulations governing such schools; and

(3) permit personnel of the Coast Guard and their dependents to occupy any public quarters maintained by the Navy and available for the purpose.

(b) Officers and enlisted men of the Coast Guard shall be permitted to purchase quartermaster supplies from the Navy and the Marine Corps at the same price as is charged the officers and enlisted men of the Navy and Marine Corps.

(c) When the Coast Guard is operating in the Department of Homeland Security, the Secretary shall provide for such peacetime training and planning of reserve strength and facilities as is necessary to insure an organized, manned, and equipped Coast Guard when it is required for wartime operation in the Navy. To this end, the Secretary of the Navy for the Navy, and the Secretary of Homeland Security, for the Coast Guard, may from time to time exchange such information, make available to each other such personnel, vessels, facilities, and equipment, and agree to undertake such assignments and functions for each other as they may agree are necessary and advisable.

(Aug. 4, 1949, ch. 393, 63 Stat. 506; Aug. 3, 1950, ch. 536, §3, 64 Stat. 406; Pub. L. 94–546, §1(11), Oct. 18, 1976, 90 Stat. 2519; Pub. L. 98–557, §15(a)(3)(D), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 107–296, title XVII, §1704(a), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

Subsection (a) is based on title 14, U.S.C., 1946 ed., §§28, 42, 57 (Aug. 29, 1916, ch. 417, 39 Stat. 601; July 3, 1926, ch. 742, §11, 44 Stat. 817.) Subsection is enlarged to make reimbursement for the building of ships or the training of personnel dependent on agreement of the Secretaries, and to include all schools operated by the Navy, rather than aviation schools only.

Subsection (b) is based on title 14, U.S.C., 1946 ed., §31 (Mar. 6, 1920, ch. 94, §1, 41 Stat. 506).

Subsection (c) is new. This subsection enacts what has been the practice of the Navy and Coast Guard in keeping the Coast Guard trained to ''come on board with some muscle'' in time of emergency.

Section 3 of this title deals with the relationship of the Coast Guard to the Navy Department. This section deals with cooperation with the Navy. Whereas the status of the Coast Guard in time of war was treated in chapter 1 of this title, this section has application in time of peace when the Coast Guard is not under the Navy Department.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation'' in two places.

1984—Subsec. (a)(2). Pub. L. 98–557 substituted reference to members for reference to officers and enlisted men in two places.

1976—Subsec. (a). Pub. L. 94–546, §1(11)(a), substituted ''at the request of the Secretary'' for ''at the request of the Secretary of the Treasury''.

Subsec. (c). Pub. L. 94–546, §1(11)(b), substituted in first sentence ''Department of Transportation'' for ''Treasury Department'' and in second sentence ''Secretary of Transportation'' for ''Secretary of the Treasury''.

1950—Subsec. (a)(3). Act Aug. 3, 1950, added par. (3).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of

Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

§ 146. United States Postal Service

Coast Guard facilities and personnel may be utilized for the transportation and delivery of mail matter during emergency conditions or at isolated locations under such arrangements as may be satisfactory to the Secretary and the United States Postal Service.

(Aug. 4, 1949, ch. 393, 63 Stat. 506; Pub. L. 94–546, § 1(12), Oct. 18, 1976, 90 Stat. 2519; Pub. L. 99–640, § 10(a)(5), Nov. 10, 1986, 100 Stat. 3549.)

HISTORICAL AND REVISION NOTES

This section provides generally for what has been the practice between the Coast Guard and the Post Office Department in Alaska for years. The authorization is limited to emergency conditions or isolated locations. 81st Congress, House Report No. 557.

AMENDMENTS

1986—Pub. L. 99–640 substituted ''United States Postal Service'' for ''Postmaster General''.

1976—Pub. L. 94–546 substituted ''United States Postal Service'' for ''Post Office Department'' in section catchline.

§ 147. Department of Commerce

In order to promote the safety of life and property on and over the high seas and waters over which the United States has jurisdiction, and to facilitate the preparation and dissemination by the National Oceanic and Atmospheric Administration of the weather reports, forecasts, and warnings essential to the safe and efficient conduct of domestic and international commerce on and over such seas and waters, the Commandant may cooperate with the Administrator, National Oceanic and Atmospheric Administration by procuring, maintaining, and making available, facilities and assistance for observing, investigating, and communicating weather phenomena and for disseminating weather data, forecasts and warnings, the mutually satisfactory terms of such cooperation in weather service to be agreed upon and arranged between the Commandant and the Administrator, National Oceanic and Atmospheric Administration.

(Aug. 4, 1949, ch. 393, 63 Stat. 507; Pub. L. 94–546, § 1(13), Oct. 18, 1976, 90 Stat. 2520; Pub. L. 97–295, § 2(5), Oct. 12, 1982, 96 Stat. 1301.)

HISTORICAL AND REVISION NOTES

This section outlines the sphere of cooperation between the Weather Bureau and the Coast Guard. It would not permit any cooperation that has not been carried on in the past.

Although the Coast Guard has always cooperated closely with the Weather Bureau, positive recognition of this has never appeared in the statutes. In its patrol, its aiding navigation, and its life saving activities, the Coast Guard finds it important to make, receive and transmit weather observations and measurements. Furthermore, with the advent of war, weather reporting, particularly mid-Atlantic weather patrol work, assumed increasing importance, and this extensive weather station manning in cooperation with the Weather Bureau must be provided for in the postwar period. This section providing for such close cooperation with the Weather Bureau in weather reporting would crystallize the cooperative practices of the two agencies as they have operated for years. 81st Congress, House Report No. 557.

AMENDMENTS

1982—Pub. L. 97–295 substituted ''Administration'' for ''Admministration'' after ''Atmospheric''.

1976—Pub. L. 94–546 substituted references to the National Oceanic and Atmospheric Administration and to the Administrator, National Oceanic and Atmospheric Administration for references to the Weather Bureau and to the Chief of the Weather Bureau.

§ 147a. Department of Health and Human Services

(a) The Commandant may assist the Secretary of Health and Human Services in providing medical emergency helicopter transportation services to civilians. The Commandant may prescribe conditions, including reimbursement, under which resources may be provided under this section. The following specific limitations apply to assistance provided under this section:

(1) Assistance may be provided only in areas where Coast Guard units able to provide the assistance are regularly assigned. Coast Guard units may not be transferred from one area to another to provide the assistance.

(2) Assistance may be provided only to the extent it does not interfere with the performance of the Coast Guard mission.

(3) Providing assistance may not cause an increase in amounts required for the operation of the Coast Guard.

(b) An individual (or the estate of that individual) who is authorized by the Coast Guard to provide a service under a program established under subsection (a) and who is acting within the scope of that individual's duties is not liable for injury to, or loss of, property or personal injury or death that may be caused incident to providing the service.

(Added Pub. L. 97–295, § 2(6)(A), Oct. 12, 1982, 96 Stat. 1301.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
147a	14:141 (note).	July 1, 1977, Pub. L. 95–61, § 8, 91 Stat. 260.

In subsection (a), the words ''Secretary of Health and Human Services'' are substituted for ''Department of Health, Education, and Welfare'' because of 20:3508(b) and because the responsibility is in the head of the Department. The word ''may'' is substituted for ''is authorized to'' for clarity. The word ''conditions'' is substituted for ''terms and conditions'' because it is inclusive. The words ''deems appropriate'' are omitted as unnecessary. The words ''The following . . . limitations apply'' are substituted for ''shall be subject to the following . . . limitations'' for clarity.

SIMILAR PROVISIONS

Similar provisions were contained in section 8 of Pub. L. 95–61 which was formerly set out as a note under section 141 of this title.

§ 148. Maritime instruction

The Coast Guard may, when so requested by proper authority, detail members for duty in connection with maritime instruction and training by the several States, Territories, the Dis-

trict of Columbia, and Puerto Rico, and when requested by the Maritime Administrator, detail persons in the Coast Guard for duty in connection with maritime instruction and training by the United States. The service rendered by any person so detailed shall be considered Coast Guard duty.

(Aug. 4, 1949, ch. 393, 63 Stat. 507; Pub. L. 97–31, §12(4), Aug. 6, 1981, 95 Stat. 154; Pub. L. 98–557, §15(a)(3)(D), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §49 (Aug. 4, 1939, ch. 416, 53 Stat. 1181).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 substituted reference to members for reference to officers and enlisted men.

1981—Pub. L. 97–31 substituted ''Maritime Administrator'' for ''United States Maritime Commission''.

§149. Assistance to foreign governments and maritime authorities

(a) DETAIL OF MEMBERS TO ASSIST FOREIGN GOVERNMENTS.—The President may upon application from the foreign governments concerned, and whenever in his discretion the public interests render such a course advisable, detail members of the Coast Guard to assist foreign governments in matters concerning which the Coast Guard may be of assistance. Members so detailed may accept, from the government to which detailed, offices and such compensation and emoluments thereunder appertaining as may be first approved by the Secretary. While so detailed such members shall receive, in addition to the compensation and emoluments allowed them by such governments, the pay and allowances to which they are entitled in the Coast Guard and shall be allowed the same credit for longevity, retirement, and for all other purposes that they would receive if they were serving with the Coast Guard.

(b) TECHNICAL ASSISTANCE TO FOREIGN MARITIME AUTHORITIES.—The Commandant, in coordination with the Secretary of State, may provide, in conjunction with regular Coast Guard operations, technical assistance (including law enforcement and maritime safety and security training) to foreign navies, coast guards, and other maritime authorities.

(Aug. 4, 1949, ch. 393, 63 Stat. 507; Pub. L. 98–557, §15(a)(3)(D), (E), (4)(A)(i), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 109–241, title II, §202(a), July 11, 2006, 120 Stat. 520.)

HISTORICAL AND REVISION NOTES

Derived from title 34, U.S.C., 1946 ed., §441a (May 19, 1926, ch. 334, 44 Stat. 565; May 14, 1935, ch. 109, 49 Stat. 218; Oct. 1, 1942, ch. 571, 56 Stat. 763; 1946 Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352).

Experience has indicated that it will be advantageous for the Government to include the Coast Guard along with the other armed forces for the purpose of detailing personnel for service with foreign governments.

It seems probable that the increased collaboration with foreign governments after the war and the vital nature of the Coast Guard's activities in relation to such collaboration will result in requests from time to time by foreign governments for assistance which the Coast Guard is in the best position to render. This section, which confers broad authority in the President to detail Coast Guard officers and enlisted men to assist foreign governments, is patterned after the act of October 1, 1942, 56 Stat. 763 (title 34, U.S.C., 1946 ed., §441–a), which authorizes the President to detail Army, Navy, and Marine Corps officers and men to certain foreign governments and, in times of war or national emergency, to any foreign government in the interests of national defense. 81st Congress, House Report No. 557.

AMENDMENTS

2006—Pub. L. 109–241 substituted ''Assistance to foreign governments and maritime authorities'' for ''Detail of members to assist foreign governments'' in section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1984—Pub. L. 98–557 substituted reference to members for reference to officers and enlisted men in three places in text, and in catchline substituted ''members'' for ''officers and men''.

DELEGATION OF AUTHORITY

Authority of President under this section as invoked by section 2 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, delegated to Secretary of Homeland Security by section 5 of Ex. Ord. No. 13223, set out as a note under section 12302 of Title 10, Armed Forces.

§150. Coast Guard officers as attachés to missions

Commissioned officers may, with the consent of the Secretary of State, be regularly and officially attached to the diplomatic missions of the United States in those nations with which the United States is extensively engaged in maritime commerce. Expenses for the maintenance of such Coast Guard attachés abroad, including office rental and pay of employees and allowances for living quarters, including heat, fuel, and light, may be defrayed by the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 507.)

HISTORICAL AND REVISION NOTES

Experience since the war has indicated the necessity for making provision for the assignment of Coast Guard officers to diplomatic missions in those foreign countries which are extensively engaged in maritime commerce with the United States. This is largely the result of duties in connection with inspection of merchant vessels.

This section authorizes the designation, with the consent of the State Department, of Coast Guard officers to be officially attached to diplomatic missions of the United States. Although Coast Guard advice on Coast Guard matters is always available to our diplomatic missions, in those locations where such advice and information are frequently sought, it is felt that the most effective utilization of Coast Guard services would be achieved by having Coast Guard officers attached to such missions. Provision for customs officers to be attached to diplomatic missions is contained in the act of March 4, 1923, as amended, 42 Stat. 1453 (title 19, U.S.C., 1946 ed., §6). Before the transfer in 1939 of the Foreign Agriculture Service to the State Department, representatives of the Bureau of Agricultural Economics of the Department of Agriculture stationed abroad were agricultural attachés. Act of June 5, 1930, 46 Stat. 498 (title 7, U.S.C., 1946 ed., §542(a)). 81st Congress, House Report No. 557.

§151. Contracts with Government-owned establishments for work and material

All orders or contracts for work or material, under authorization of law, placed with Govern-

ment-owned establishments by the Coast Guard, shall be considered as obligations in the same manner as provided for similar orders or contracts placed with private contractors, and appropriations for such work or material shall remain available for payment therefor as in the case of orders or contracts placed with private contractors.

(Aug. 4, 1949, ch. 393, 63 Stat. 507.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 31c (June 6, 1942, ch. 384, 56 Stat. 328). 81st Congress, House Report No. 557.

§ 152. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services

The Coast Guard Exchange System, or a morale, welfare, and recreation system of the Coast Guard, may enter into a contract or other agreement with any element or instrumentality of the Coast Guard or with another Federal department, agency, or instrumentality to provide or obtain goods and services beneficial to the efficient management and operation of the Coast Guard Exchange System or that morale, welfare, and recreation system.

(Added Pub. L. 108–293, title II, § 202(a), Aug. 9, 2004, 118 Stat. 1031.)

CHAPTER 9—COAST GUARD ACADEMY

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AMENDMENTS

2006—Pub. L. 109–241, title II, § 209(b), July 11, 2006, 120 Stat. 523, added item 198.

2004—Pub. L. 108–375, div. A, title V, § 545(d)(2), Oct. 28, 2004, 118 Stat. 1909, added item 197.

1993—Pub. L. 103–206, title III, § 305(b), Dec. 20, 1993, 107 Stat. 2425, added item 196.

1984—Pub. L. 98–557, § 24(b), Oct. 30, 1984, 98 Stat. 2872, added item 181a.

1982—Pub. L. 97–295, § 2(7)(A), Oct. 12, 1982, 96 Stat. 1301, substituted ''Civilian teaching staff'' for ''Civilian instructors'' in item 186.

Pub. L. 97–295, § 2(7)(B), Oct. 12, 1982, 96 Stat. 1301, substituted ''foreign nationals'' for ''foreigners'' in item 195.

1970—Pub. L. 91–278, § 1(7), June 12, 1970, 84 Stat. 305, added item 195.

1960—Pub. L. 86–474, § 1(15), May 14, 1960, 74 Stat. 146, substituted ''member of civilian teaching staff'' for ''civilian instructor'' in item 191.

§ 181. Administration of Academy

The immediate government and military command of the Coast Guard Academy shall be in the Superintendent of the Academy, subject to the direction of the Commandant under the general supervision of the Secretary. The Commandant may select a superintendent from the active list of the Coast Guard who shall serve in the pleasure of the Commandant.

(Aug. 4, 1949, ch. 393, 63 Stat. 508.)

HISTORICAL AND REVISION NOTES

This section does not change the present method of administration of the Academy. It makes statutory what has been administrative regulation heretofore, and it is believed highly desirable to make the control of an institution of such national interest as the Academy the subject of a statute.

This section is new. There is no provision in existing law which establishes the Academy and sets it up as an operating unit. Nor is there any provision which creates the office of Superintendent of the Academy, or prescribes his duties and functions. Heretofore this has been accomplished by regulations, and the laws which deal with the Academy assume its existence as a going institution and assume the existence of the Superintendent with certain defined functions and duties. This section continues the Academy as previously established, provides for the appointment of the Superintendent by the Commandant, and defines in general terms his functions. The Academy would thus be placed on a definite statutory basis, and the office of Superintendent would be a statutory position, but the present administration of the Academy would in no way be interfered with. 81st Congress, House Report No. 557.

§ 181a. Cadet applicants; preappointment travel to Academy

The Secretary is authorized to expend appropriated funds for selective preappointment travel to the Academy for orientation visits of cadet applicants.

(Added Pub. L. 98–557, § 24(a), Oct. 30, 1984, 98 Stat. 2872.)

§ 182. Cadets; number, appointment, obligation to serve

(a) The number of cadets appointed annually to the Academy shall be as determined by the Secretary but the number appointed in any one year shall not exceed six hundred. Appointments to cadetships shall be made under regulations prescribed by the Secretary, who shall determine age limits, methods of selection of applicants, term of service as a cadet before graduation, and all other matters affecting such appointments. All such appointments shall be made without regard to the sex, race, color, or religious beliefs of an applicant. In the administration of this chapter, the Secretary shall take

[1] So in original. Probably should be followed by a period.

such action as may be necessary and appropriate to insure that female individuals shall be eligible for appointment and admission to the Coast Guard Academy, and that the relevant standards required for appointment, admission, training, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals. The Secretary may summarily dismiss from the Coast Guard any cadet who, during his cadetship, is found unsatisfactory in either studies or conduct, or may be deemed not adapted for a career in the Coast Guard. Cadets shall be subject to rules governing discipline prescribed by the Commandant.

(b) Each cadet shall sign an agreement with respect to the cadet's length of service in the Coast Guard. The agreement shall provide that the cadet agrees to the following:

(1) That the cadet will complete the course of instruction at the Coast Guard Academy.

(2) That upon graduation from the Coast Guard Academy the cadet—

(A) will accept an appointment, if tendered, as a commissioned officer of the Coast Guard; and

(B) will serve on active duty for at least five years immediately after such appointment.

(3) That if an appointment described in paragraph (2) is not tendered or if the cadet is permitted to resign as a regular officer before the completion of the commissioned service obligation of the cadet, the cadet—

(A) will accept an appointment as a commissioned officer in the Coast Guard Reserve; and

(B) will remain in that reserve component until completion of the commissioned service obligation of the cadet.

(c)(1) The Secretary may transfer to the Coast Guard Reserve, and may order to active duty for such period of time as the Secretary prescribes (but not to exceed four years), a cadet who breaches an agreement under subsection (b). The period of time for which a cadet is ordered to active duty under this paragraph may be determined without regard to section 651(a) of title 10.

(2) A cadet who is transferred to the Coast Guard Reserve under paragraph (1) shall be transferred in an appropriate enlisted grade or rating, as determined by the Secretary.

(3) For the purposes of paragraph (1), a cadet shall be considered to have breached an agreement under subsection (b) if the cadet is separated from the Coast Guard Academy under circumstances which the Secretary determines constitute a breach by the cadet of the cadet's agreement to complete the course of instruction at the Coast Guard Academy and accept an appointment as a commissioned officer upon graduation from the Coast Guard Academy.

(d) The Secretary shall prescribe regulations to carry out this section. Those regulations shall include—

(1) standards for determining what constitutes, for the purpose of subsection (c), a breach of an agreement under subsection (b);

(2) procedures for determining whether such a breach has occurred; and

(3) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection (c).

(e) In this section, ''commissioned service obligation'', with respect to an officer who is a graduate of the Academy, means the period beginning on the date of the officer's appointment as a commissioned officer and ending on the sixth anniversary of such appointment or, at the discretion of the Secretary, any later date up to the eighth anniversary of such appointment.

(f)(1) This section does not apply to a cadet who is not a citizen or national of the United States.

(2) In the case of a cadet who is a minor and who has parents or a guardian, the cadet may sign the agreement required by subsection (b) only with the consent of the parent or guardian.

(g) A cadet or former cadet who does not fulfill the terms of the obligation to serve as specified under section (b), or the alternative obligation imposed under subsection (c), shall be subject to the repayment provisions of section 303a(e) of title 37.

(Aug. 4, 1949, ch. 393, 63 Stat. 508; Pub. L. 88–276, §5(b), Mar. 3, 1964, 78 Stat. 153; Pub. L. 89–444, §1(8), June 9, 1966, 80 Stat. 195; Pub. L. 91–278, §1(4), June 12, 1970, 84 Stat. 304; Pub. L. 94–572, §1, Oct. 21, 1976, 90 Stat. 2708; Pub. L. 97–295, §2(8), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 100–448, §12, Sept. 28, 1988, 102 Stat. 1843; Pub. L. 109–163, div. A, title VI, §687(d), Jan. 6, 2006, 119 Stat. 3336.)

HISTORICAL AND REVISION NOTES

Based on the proviso under the heading ''Revenue Cutter Service'' of act Feb. 25, 1903, ch. 755, 32 Stat. 869, and on title 14, U.S.C., 1946 ed., §§15, 15a–1, 25 (June 23, 1906, ch. 3520, §2, 34 Stat. 452; Jan. 28, 1915, ch. 20, §1, 38 Stat. 800; July 3, 1926, ch. 742, §6, 44 Stat. 816; July 30, 1937, ch. 545, §5, 50 Stat. 549; May 25, 1943, ch. 99, 57 Stat. 84).

Section 15 of title 14, U.S.C., 1946 ed., has been divided. That part dealing with clothing allowance for cadets is placed in section 183 of this title and the other parts are incorporated with the proviso of title 14, U.S.C., 1946 ed., §15a–1 to form this section.

Section 15a–1 of title 14, U.S.C., 1946 ed., has been divided. That part dealing with the appointment of cadets to the grade of ensign is placed in section 185 of this title, and the proviso is placed in this section.

The length of term of service as a cadet prior to graduation is added to the list of matters specifically determined by the Secretary.

The period of required service after graduation is increased from 3 to 4 years, to attain uniformity with the other service academies. 81st Congress, House Report No. 557.

AMENDMENTS

2006—Subsec. (g). Pub. L. 109–163 added subsec. (g).

1988—Subsec. (a). Pub. L. 100–448, §12(1), struck out before last sentence ''Previous to his admission each cadet shall obligate himself, in such manner as the Secretary shall prescribe, to complete the course of instruction at the Coast Guard Academy and to serve at least five years as an officer in the Coast Guard after graduation, if his service be so long required.''

Subsecs. (b) to (f). Pub. L. 100–448, §12(2), added subsecs. (b) to (f) and struck out former subsec. (b) which read as follows: ''A cadet who does not fulfill his obligation to complete the course of instruction or refuses to

accept an appointment as an officer in the Coast Guard may be transferred by the Secretary to the Coast Guard Reserve in an appropriate enlisted grade or rating, and, notwithstanding section 651 of title 10, may be ordered to active duty to serve in that grade or rating for such period of time as the Secretary prescribes, but not for more than four years.''

1982—Subsec. (b). Pub. L. 97–295 struck out ''United States Code,'' after ''title 10,''.

1976—Subsec. (a). Pub. L. 94–572 inserted provisions for nondiscriminatory appointment of cadets to the Coast Guard Academy.

1970—Pub. L. 91–278 substituted ''six hundred'' for ''four hundred'' in first sentence, required each cadet to obligate himself to complete the course of instruction at the Academy, designated existing provisions as subsec. (a), and added subsec. (b).

1966—Pub. L. 89–444 substituted ''four hundred'' for ''three hundred'' in first sentence.

1964—Pub. L. 88–276 substituted ''five'' for ''four'' in fourth sentence.

EFFECTIVE DATE OF 1964 AMENDMENT; OBLIGATED PERIOD OF SERVICE

Amendment by Pub. L. 88–276 effective only with respect to cadets and midshipmen appointed to the service academies and the Coast Guard Academy after Mar. 3, 1964, see section 5(c) of Pub. L. 88–276, set out as a note under section 4348 of Title 10, Armed Forces.

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(d) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of Title 10, Armed Forces.

§ 183. Cadets; initial clothing allowance

The Secretary may prescribe a sum which shall be credited to each new cadet upon first admission to the Academy, to cover the cost of his initial clothing and equipment issue, which sum shall be deducted subsequently from his pay. Each cadet discharged prior to graduation who is indebted to the United States on account of advances of pay to purchase required clothing and equipment shall be required to turn in to the Academy all clothing and equipment of a distinctively military nature to the extent required to discharge such indebtedness; and, if the value of such clothing and equipment so turned in does not cover the indebtedness incurred, then such indebtedness shall be canceled.

(Aug. 4, 1949, ch. 393, 63 Stat. 508; Aug. 22, 1951, ch. 340, § 3, 65 Stat. 196.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15 (June 23, 1906, ch. 3520, § 2, 34 Stat. 452; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; July 3, 1926, ch. 742, § 6, 44 Stat. 816; July 30, 1937, ch. 545, § 5, 50 Stat. 549).

Said section has been divided. That part dealing with clothing allowance for cadets is placed in this section and the other parts are incorporated in section 182 of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1951—Act Aug. 22, 1951, substituted provision that the Secretary may prescribe the sum to be credited for the former prescribed sum of $250, and inserted second sentence.

§ 184. Cadets; degree of bachelor of science

The Superintendent of the Academy may, under such rules and regulations as the Secretary shall prescribe, confer the degree of bachelor of science upon all graduates of the Academy and may, in addition, confer the degree of bachelor of science upon such other living graduates of the Academy as shall have met the requirements of the Academy for such degree.

(Aug. 4, 1949, ch. 393, 63 Stat. 508.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15a (May 25, 1933, ch. 37, 48 Stat. 73; July 8, 1937, ch. 447, 50 Stat. 477; Aug. 9, 1946, ch. 928, 60 Stat. 961).

Changes in phraseology were made inasmuch as the Academy is now accredited by the Association of American Universities. It was not so accredited when the section was enacted.

Inasmuch as the acts cited above apply equally to the Military Academy and the Naval Academy, as well as the Coast Guard Academy, they are not scheduled for repeal but are being amended by section 13 of this act to eliminate reference to the Coast Guard. 81st Congress, House Report No. 557.

§ 185. Cadets; appointment as ensign

The President may, by and with the advice and consent of the Senate, appoint as ensigns in the Coast Guard all cadets who shall graduate from the Academy. Ensigns so commissioned on the same date shall take rank according to their proficiency as shown by the order of their merit at date of graduation.

(Aug. 4, 1949, ch. 393, 63 Stat. 508.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15a–1 (May 25, 1943, ch. 99, 57 Stat. 84).

Said section has been divided. The proviso is incorporated in section 182 of this title. The other part is incorporated in this section.

The last sentence of this section is new as a statute; it makes statutory what has been the practice of years, and is similar to the third sentence of title 34, U.S.C., 1946 ed., § 1057, applicable to graduates of the Naval Academy. 81st Congress, House Report No. 557.

§ 186. Civilian teaching staff

(a) The Secretary may appoint in the Coast Guard such number of civilian faculty members at the Academy as the needs of the Service may require. They shall have such titles and perform duties as prescribed by the Secretary. Leaves of absence and hours of work for civilian faculty members shall be governed by regulations promulgated by the Secretary, without regard to the provisions of title 5.

(b) The compensation of persons employed under this section is as prescribed by the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 509; Sept. 3, 1954, ch. 1263, § 32, 68 Stat. 1238; Pub. L. 86–474, § 1(9), May 14, 1960, 74 Stat. 145; Pub. L. 89–444, § 1(9), June 9, 1966, 80 Stat. 195; Pub. L. 94–546, § 1(14), Oct. 18, 1976, 90 Stat. 2520.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15d (Apr. 16, 1937, ch. 107, § 3, 50 Stat. 67; May 2, 1942, ch. 273, 56 Stat. 265).

The last sentence is new and is inserted to permit adjustment of the work load and leave schedule of Acad-

emy faculty members due to the peculiarity of the academic schedule.

The last sentence of this section is new, being included in order to allow for adjusting the working time and leave of civilian instructors in conformity with the academic terms at the Academy. The work load of an instructor varies greatly, and flexibility in administration of a faculty is therefore essential. The leave provided for civil service employees does not fit the needs of an instruction staff, and this has been a source of difficulty in the past. This new provision would permit leave during the summer and between academic terms without deduction from pay, and, it is contemplated, at no other time.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–546 substituted ''Leaves of absence and hours of work for civilian faculty members shall be governed by regulations promulgated by the Secretary, without regard to the provisions of title 5.'' for ''Leaves of absence and hours of work for such personnel shall be governed by regulations issued by the Secretary of the Treasury, without regard to section 84, chapter 18, subchapter IV of chapter 21, sections 1112, 1113, and 1121–1125, and chapter 23, of title 5.''

1966—Subsec. (a). Pub. L. 89–444, §1(9)(A), (B), substituted ''faculty members'' for ''members of the teaching staff'' and struck out provision that compensation of faculty members be fixed in accordance with the Classification Act of 1949, as amended, and designated existing provisions as so amended as subsec. (a).

Subsec. (b). Pub. L. 89–444, §1(9)(C), added subsec. (b).

1960—Pub. L. 86–474 substituted ''Coast Guard such number of civilian members of the teaching staff at the Academy as the needs of the Service may require'' for ''Coast Guard, subject to the competitive provisions of the civil-service laws and regulations, such number of civilian instructors as the needs of the Service require, not to exceed eight'', and inserted provisions relating to titles and duties of the civilian members of the teaching staff.

1954—Act Sept. 3, 1954, substituted ''Classification Act of 1949'' for ''Classification Act of 1923'' and ''section 84, chapter 18, subchapter IV of chapter 21, sections 1112, 1113, and 1121–1125, and chapter 23, of title 5'' for ''sections 29a, 30b–30m, 84, 663, 667, 672a–673, and chapter 18 of title 5''.

§187. Permanent commissioned teaching staff; composition

The permanent commissioned teaching staff at the Academy shall consist of professors, associate professors, assistant professors and instructors, in such numbers as the needs of the Service require. They shall perform duties as prescribed by the Commandant, and exercise command only in the academic department of the Academy.

(Aug. 4, 1949, ch. 393, 63 Stat. 509; Pub. L. 86–474, §1(10), May 14, 1960, 74 Stat. 145.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§15b, 15c (Apr. 16, 1937, ch. 107, §§1, 2, 50 Stat. 66; May 2, 1942, ch. 273, 56 Stat. 265).

Section 15b of title 14, U.S.C., 1946 ed., has been divided. Part of the provisions of the first sentence is placed in this section, while other provisions are placed in section 188 of this title.

Section 15c of title 14, U.S.C., 1946 ed., has been divided. The last sentence is incorporated in this section, while the other provisions are placed in section 189 of this title.

The composition of the teaching staff at the Academy is changed materially on the recommendation of the Academic Board and the Advisory Committee. The scope of duty of members of the staff is enlarged to include whatever the Commandant prescribes.

Title 14, U.S.C., 1946 ed., §15b provides for five professors as heads or assistant heads of departments at the Academy. The Academic Board of the Academy and the Advisory Committee, after extensive study have recommended the change, as provided in this section, to three professors and twelve others on the permanent teaching staff, with designations to conform generally with the designations and grades of faculty members at other universities. The librarian is given faculty status because of the role of the library as the center of the modern university; this is in conformity with the practice of other higher educational institutions. It is believed that the increased number of permanent commissioned instructors is justified and desirable in view of the expansion of the Cadet Corps as the full effect of the return to a four-year course is felt. It is probable that, in the next few years, the number of cadets will approximate 450. The average number in the past two years has been about 300. This new set-up for the permanent commissioned teaching staff will permit desirable exchanges of professors with leading universities, and occasional sabbatical leaves in order to better the faculty generally. It is pointed out that this increase in permanent instructors does not increase the authorized number of officers in the Coast Guard, as they are all included in the limitation provided in section 42 of this title. If a teaching position at the Academy is not provided for permanently it will require the assignment of an additional regular officer, so it is apparent that the changes proposed in this section do not increase the size of the Service, or the expense, but represent a long-range plan to better the Academy as a leading educational institution within the present, recognized, standards for a proper university faculty. The last sentence retains the command status of the professors as provided in existing law but enlarges the field in which they may perform duty, in order to make it possible to give them interim assignments other than at the Academy, thus broadening their knowledge of the Service while still advantageously utilizing their services. 81st Congress, House Report No. 557.

AMENDMENTS

1960—Pub. L. 86–474 substituted ''shall consist of professors, associate professors, assistant professors and instructors, in such numbers as the needs of the Service require'' for ''shall consist of not more than three professors who may serve as heads of departments, and not more than twelve associate professors, assistant professors, and commissioned instructors, one of whom shall be the librarian''.

§188. Appointment of permanent commissioned teaching staff

The President may appoint in the Coast Guard, by and with the advice and consent of the Senate, the professors, associate professors, assistant professors, and instructors who are to serve on the permanent commissioned teaching staff of the Academy. An original appointment to the permanent commissioned teaching staff, unless the appointee has served as a civilian member of the teaching staff, regular commissioned officer, temporary commissioned officer, or reserve commissioned officer in the Coast Guard, shall be a temporary appointment until the appointee has satisfactorily completed a probationary term of four years of service; thereafter he may be regularly appointed and his rank shall date from the date of his temporary appointment in the grade in which permanently appointed.

(Aug. 4, 1949, ch. 393, 63 Stat. 509; Pub. L. 86–474, § 1(11), May 14, 1960, 74 Stat. 145; Pub. L. 94–546, § 1(15), Oct. 18, 1976, 90 Stat. 2520.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15b (Apr. 16, 1937, ch. 107, § 1, 50 Stat. 66; May 2, 1942, ch. 273, 56 Stat. 265).

Said section has been divided. That part of the first sentence which provides for the composition of the teaching staff is incorporated in section 187 of this title. The other provisions are incorporated in this section, except for the proviso which has been omitted as no longer needed.

This section incorporates the following changes because of the new plan for the permanent teaching staff: the President is authorized to appoint a candidate to any of the grades prescribed; and the probationary term, applicable unless the candidate has served in the Coast Guard as prescribed in this section, is increased from two to four years. Authorization for appointment in any grade is deemed desirable in order to permit the acquisition of outstanding instructors for the staff. It is believed that the former two-year period was too short to fully evaluate the capabilities of a temporary appointee. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Pub. L. 94–546 substituted ''grade in which permanently appointed'' for ''rank in which permanently appointed''.

1960—Pub. L. 86–474 substituted ''and instructors who are to serve'' for ''and commissioned instructors who are to serve'', and ''civilian member of the teaching staff'' for ''civilian instructor''.

§ 189. Grade of permanent commissioned teaching staff

Professors shall be commissioned officers with grade not above captain, associate and assistant professors with grade not above commander, and instructors with grade not above lieutenant commander. All officers of the permanent commissioned teaching staff shall receive the pay and allowances of other commissioned officers of the same grade and length of service. When any such professor, associate professor, assistant professor, or instructor is appointed or commissioned with grade less than the highest grade permitted, he shall be promoted under regulations prescribed by the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 509; Pub. L. 86–474, § 1(12), May 14, 1960, 74 Stat. 145.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15c (Apr. 16, 1937, ch. 107, § 2, 50 Stat. 66).

Said section has been divided. The last sentence is incorporated in section 187 of this title. The other provisions are incorporated in this section.

The limitation on grade of professors is raised from Commander to Captain, and other limitations as to grades within the new permanent commissioned teaching staff are established.

This section prescribes the relative ranks for the various grades in the permanent commissioned teaching staff, establishes the pay as heretofore, and provides for promotion as the Secretary shall prescribe. 81st Congress, House Report No. 557.

AMENDMENTS

1960—Pub. L. 86–474 substituted ''and instructors with grade not above'' for ''and commissioned instructors with grade not above'', and ''assistant professor, or instructor'' for ''or assistant professor''.

§ 190. Retirement of permanent commissioned teaching staff

Professors, associate professors, assistant professors, and instructors in the Coast Guard shall be subject to retirement or discharge from active service for any cause on the same basis as other commissioned officers of the Coast Guard, except that they shall not be required to retire from active service under the provisions of section 288 of this title, nor shall they be subject to the provisions of section 289 of this title, nor shall they be required to retire at age sixty-two but may be permitted to serve until age sixty-four at which time unless earlier retired or separated they shall be retired. The Secretary may retire any member of the permanent commissioned teaching staff who has completed thirty years' active service. Service as a civilian member of the teaching staff at the Academy in addition to creditable service authorized by any other law in any of the military services rendered prior to an appointment as a professor, associate professor, assistant professor, or instructor shall be credited in computing length of service for retirement purposes. The provisions of law relating to retirement for disability in line of duty shall not apply in the case of a professor, associate professor, assistant professor, or instructor serving under a temporary appointment.

(Aug. 4, 1949, ch. 393, 63 Stat. 509; Pub. L. 86–474, § 1(13), May 14, 1960, 74 Stat. 145; Pub. L. 88–130, § 1(8), Sept. 24, 1963, 77 Stat. 175; Pub. L. 89–444, § 1(10), June 9, 1966, 80 Stat. 196; Pub. L. 91–278, § 1(5), June 12, 1970, 84 Stat. 304.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15f (Apr. 16, 1937, ch. 107, § 5, 50 Stat. 67).

The provision prohibiting the retirement of a professor because of physical disability with less than 15 years' service is changed to have application only during the temporary appointment of a professor.

This section provides for the retirement of associate professors, assistant professors, and commissioned instructors in addition to professors. It is believed that the provision of existing law requiring 15 years' service before becoming eligible for retirement, discriminated against this group of officers as no other group was discriminated against, and should be eliminated. It was changed so that these officers would be ineligible for retirement during their probationary term only.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1970—Pub. L. 91–278 permitted permanent teachers to retire at sixty-four rather than at sixty-two unless earlier retired or separated.

1966—Pub. L. 89–444 authorized the Secretary to retire any member of the permanent commissioned teaching staff who has completed thirty years' active service.

1963—Pub. L. 88–130 inserted ''or discharge'', excepted staff members from retirement from active service under section 288 of this title, and from the provisions of section 289 of this title, and struck out ''permanent'' before ''commissioned officers''.

1960—Pub. L. 86–474 substituted ''civilian member of the teaching staff'' for ''civilian instructor or civilian librarian'', and struck out ''commissioned'' in three places before ''instructors'' and ''instructor'', respectively.

§ 191. Credit for service as member of civilian teaching staff

Service as a member of the civilian teaching staff at the Academy in addition to creditable services authorized by any other law in any of the military services rendered prior to an appointment as professor, associate professor, assistant professor, or instructor shall be credited in computing length of service as a professor, associate professor, assistant professor, or instructor for purposes of pay and allowances.

(Aug. 4, 1949, ch. 393, 63 Stat. 510; Pub. L. 86–474, § 1(14), May 14, 1960, 74 Stat. 146.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15e (Apr. 16, 1937, ch. 107, § 4, 50 Stat. 67).

Changes in phraseology were made in order to adapt the section to the new structure of the permanent commissioned teaching staff. 81st Congress, House Report No. 557.

AMENDMENTS

1960—Pub. L. 86–474 substituted ''member of civilian teaching staff'' for ''civilian instructor'' in section catchline, and ''member of the civilian teaching staff'' for ''civilian instructor or civilian librarian'' in text, and struck out ''commissioned'' before ''instructor'' in two places.

§ 192. Assignment of personnel as instructors

The Commandant may assign any member to appropriate instruction duty at the Academy.

(Aug. 4, 1949, ch. 393, 63 Stat. 510; Pub. L. 98–557, § 15(a)(3)(H), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15i (Apr. 16, 1937, ch. 107, § 8, 50 Stat. 67).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 substituted reference to member for reference to commissioned officer, warrant officer, and enlisted man.

§ 193. Advisory Committee

The Secretary may appoint an Advisory Committee to the Academy, consisting of not more than seven persons of distinction in education and other fields relating to the purposes of the Academy, who shall serve without pay (or, in the case of a member of the Committee who is an officer or employee of the United States, who shall receive no additional pay on account of his service on the Committee). Members of the Advisory Committee shall be appointed for terms of not to exceed three years and may be reappointed. The Secretary shall, in June of each year, appoint one of the members to serve as chairman. The members so appointed shall visit the Academy at least once during the academic year on the call of the chairman and may convene once each year at Headquarters, at the call of the Commandant, for the purpose of examining the course of instruction and advising the Commandant relative thereto. Each member of the Committee shall be reimbursed from Coast Guard appropriations in conformity with the provisions of chapter 57 of title 5. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Advisory Committee. The Advisory Committee is authorized to make available to Congress any information, advice, and recommendations which the Advisory Committee is authorized to give to the Secretary or the Commandant. The Committee terminates on September 30, 1994.

(Aug. 4, 1949, ch. 393, 63 Stat. 510; Pub. L. 94–546, § 1(16), Oct. 18, 1976, 90 Stat. 2520; Pub. L. 97–322, title I, § 118(b), Oct. 15, 1982, 96 Stat. 1586; Pub. L. 100–448, § 9, Sept. 28, 1988, 102 Stat. 1842; Pub. L. 102–241, § 15, Dec. 19, 1991, 105 Stat. 2213.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15g (Apr. 16, 1937, ch. 107, § 6, 50 Stat. 67).

Said section dealing with the Advisory Committee is changed to increase the number of persons thereon to 7, the source from which appointments could be made is broadened to include other than educators, the term of appointment is fixed as 3 years, and provision is made for the appointment of the chairman by the Secretary.

This section changes existing law as follows: the field from which appointment may be made is broadened, the limit of membership is increased from five to seven, a provision for appointment of a chairman by the Secretary is added, and the term of service is established as three years. It is believed that the membership of not to exceed seven will provide greater flexibility in view of the new three year term of service, and will permit appointment of a committee with wider interests. The fact that no term of service has been provided for heretofore has been a source of confusion and difficulty and some term should be specified. The existing law provides for appointment from the field of education; this is enlarged to include other fields relating to purposes of the Academy, in order, primarily, to permit selection from shipping, business, and industry. No provision has been made for selection of a chairman heretofore, and this has caused some uncertainty in the functioning of the Committee; annual appointment seems desirable.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1991—Pub. L. 102–241 substituted ''1994'' for ''1992''.

1988—Pub. L. 100–448 inserted provision for termination of Committee on Sept. 30, 1992.

1982—Pub. L. 97–322 inserted parenthetical provision respecting service of an officer or employee of the United States as a member of the Committee without receipt of additional pay and inserted provisions for publication in the Federal Register of notice for solicitation of nominations for membership on the Advisory Committee and for disclosures to Congress.

1976—Pub. L. 94–546 substituted ''chairman'' for ''Chairman'' in fourth sentence and ''Each member of the Committee shall be reimbursed from Coast Guard appropriations in conformity with the provisions of chapter 57 of title 5.'' for ''Each member of the Committee shall be reimbursed from Coast Guard appropriations in conformity with section 73b–1 of Title 5, or such actual expenses as permitted by section 73b–2 of Title 5 shall be defrayed by the Coast Guard''.

§ 194. Annual Board of Visitors

(a) In addition to the Advisory Committee, a Board of Visitors to the Academy is established to visit the Academy annually and to make recommendations on the operation of the Academy.

(b) The Board shall be composed of—

(1) two Senators designated by the Chairman of the Committee on Commerce, Science, and Transportation of the Senate;

(2) three Members of the House of Representatives designated by the Chairman of the Committee on Transportation and Infrastructure of the House of Representatives;

(3) one Senator designated by the President of the Senate;

(4) two Members of the House of Representatives designated by the Speaker of the House of Representatives; and

(5) the Chairman of the Committee on Commerce, Science, and Transportation of the Senate and the Chairman of the Committee on Transportation and Infrastructure of the House of Representatives, as ex officio Members.

(c) When a Member is unable to attend the annual meeting another Member may be designated as provided under subsection (b).

(d) When an ex officio Member is unable to attend the annual meeting that Member may designate another Member.

(e) Members of the Board shall be designated in the First Session and serve for the duration of the Congress.

(f) The Board shall visit the Academy annually on the date chosen by the Secretary. Each Member of the Board shall be reimbursed, to the extent permitted by law, by the Coast Guard for actual expenses incurred while engaged in duties as a Member of the Board.

(Aug. 4, 1949, ch. 393, 63 Stat. 510; Pub. L. 101–595, title III, § 304, Nov. 16, 1990, 104 Stat. 2984; Pub. L. 107–295, title IV, § 408(a)(1), Nov. 25, 2002, 116 Stat. 2117.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15h (Apr. 16, 1937, ch. 107, § 7, 50 Stat. 67; July 15, 1939, ch. 288, 53 Stat. 1044).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

2002—Subsec. (b)(2), (5). Pub. L. 107–295 substituted ''Transportation and Infrastructure'' for ''Merchant Marine and Fisheries''.

1990—Pub. L. 101–595 amended section generally. Prior to amendment, section read as follows:

''(a) In addition to the Advisory Committee, there shall be appointed in January of each year a Board of Visitors to the Academy, consisting of two Senators and three members of the House of Representatives, appointed by the chairmen of the committees of the Senate and House of Representatives, respectively, having cognizance of legislation pertaining to the Academy, the chairmen of said committees being ex officio members of the Board, and of one Senator and two members of the House of Representatives appointed by the President of the Senate and the Speaker of the House of Representatives, respectively. Whenever a member or an ex officio member is unable to attend the annual meeting as provided in this section another member may be appointed in his stead in the manner as herein provided but without restriction as to month of appointment.

''(b) Such Board shall visit the Academy annually on a date to be fixed by the Secretary. Each member of the Board shall be reimbursed from Coast Guard appropriations under Government travel regulations for the actual expense incurred by him while engaged in duties as a member of such Board, or such actual expenses as permitted under such regulations shall be defrayed by the Coast Guard.''

§ 195. Admission of foreign nationals for instruction; restrictions; conditions

(a) A foreign national may not receive instruction at the Academy except as authorized by this section.

(b) The President may designate not more than 36 foreign nationals whom the Secretary may permit to receive instruction at the Academy.

(c) A person receiving instruction under this section is entitled to the same pay and allowances, to be paid from the same appropriations, as a cadet appointed pursuant to section 182 of this title. A person may receive instruction under this section only if his country agrees in advance to reimburse the United States, at a rate determined by the Secretary, for the cost of providing such instruction, including pay and allowances, unless a waiver therefrom has been granted to that country by the Secretary. Funds received by the Secretary for this purpose shall be credited to the appropriations bearing the cost thereof, and may be apportioned between fiscal years.

(d) A person receiving instruction under this section is—

(1) not entitled to any appointment in the Coast Guard by reason of his graduation from the Academy; and

(2) subject to those regulations applicable to the Academy governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation, except as may otherwise be prescribed by the Secretary.

(Added Pub. L. 91–278, § 1(6), June 12, 1970, 84 Stat. 304; amended Pub. L. 94–468, Oct. 11, 1976, 90 Stat. 2002.)

AMENDMENTS

1976—Pub. L. 94–468 substituted ''foreign nationals'' for ''foreigners'' in section catchline.

Subsec. (a). Pub. L. 94–468 substituted provision barring foreign nationals from receiving instruction at the Academy unless authorized by this section, for provision which authorized the Secretary to permit four persons at a time from the Republic of the Philippines, as designated by the President, to attend the Academy.

Subsec. (b). Pub. L. 94–468 substituted provision authorizing the President to designate not more than thirty-six foreign nationals whom the Secretary may permit to attend the Academy, for provision which authorized foreign nationals to receive the same pay and allowances as cadets at the Academy.

Subsec. (c). Pub. L. 94–468 substituted provision authorizing a foreign national to receive the same pay and allowances as a cadet providing his country agree in advance to reimburse the United States and directing the Secretary to credit any funds so received to the appropriations for pay and allowances, for provision which required that foreign nationals be subject to the same rules and regulations as cadets.

Subsec. (d). Pub. L. 94–468 added subsec. (d).

§ 196. Participation in Federal, State, or other educational research grants

Notwithstanding any other provision of law, the United States Coast Guard Academy may compete for and accept Federal, State, or other educational research grants, subject to the following limitations:

(1) No award may be accepted for the acquisition or construction of facilities.

(2) No award may be accepted for the routine functions of the Academy.

(Added Pub. L. 103–206, title III, §305(a), Dec. 20, 1993, 107 Stat. 2424.)

§197. Cadets: charges and fees for attendance; limitation

(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Homeland Security shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.

(Added Pub. L. 108–375, div. A, title V, §545(d)(1), Oct. 28, 2004, 118 Stat. 1909.)

§198. Coast Guard history fellowships

(a) FELLOWSHIPS.—The Commandant of the Coast Guard may prescribe regulations under which the Commandant may award fellowships in Coast Guard history to individuals who are eligible under subsection (b).

(b) ELIGIBLE INDIVIDUALS.—An individual shall be eligible under this subsection if the individual is a citizen or national of the United States and—

(1) is a graduate student in United States history;

(2) has completed all requirements for a doctoral degree other than preparation of a dissertation; and

(3) agrees to prepare a dissertation in a subject area of Coast Guard history determined by the Commandant.

(c) LIMITATIONS.—The Commandant may award up to 2 fellowships annually. The Commandant may not award any fellowship under this section that exceeds $25,000 in any year.

(d) REGULATIONS.—The regulations prescribed under this section shall include—

(1) the criteria for award of fellowships;

(2) the procedures for selecting recipients of fellowships;

(3) the basis for determining the amount of a fellowship; and

(4) subject to the availability of appropriations, the total amount that may be awarded as fellowships during an academic year.

(Added Pub. L. 109–241, title II, §209(a), July 11, 2006, 120 Stat. 522.)

CHAPTER 11—PERSONNEL

OFFICERS

A. APPOINTMENTS

Sec.
211. Original appointment of permanent commissioned officers.
[212, 213. Repealed.]
214. Appointment of temporary officers.
215. Rank of warrant officers.
216. Director of Boating Safety Office[1]
[221 to 248. Repealed.]

B. SELECTION FOR PROMOTION

251. Selection boards; convening of boards.
252. Selection boards; composition of boards.
253. Selection boards; notice of convening; communication with board.
254. Selection boards; oath of members.
255. Number of officers to be selected for promotion.
256. Promotion zones.
256a. Promotion year; defined.
257. Eligibility of officers for consideration for promotion.
258. Selection boards; information to be furnished boards.
259. Officers to be recommended for promotion.
260. Selection boards; reports.
261. Selection boards; submission of reports.
262. Failure of selection for promotion.

C. PROMOTIONS

271. Promotions; appointments.
272. Removal of officer from list of selectees for promotion.
273. Promotions; acceptance; oath of office.
274. Promotions; pay and allowances.
275. Wartime temporary service promotions.
276. Promotion of officers not included on active duty promotion list.
[277. Repealed.]

D. DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS

281. Revocation of commissions during first five years of commissioned service.
282. Regular lieutenants (junior grade); separation for failure of selection for promotion.
283. Regular lieutenants; separation for failure of selection for promotion; continuation.
284. Regular Coast Guard; officers serving under temporary appointments.
285. Regular lieutenant commanders and commanders; retirement for failure of selection for promotion.
286. Discharge in lieu of retirement; separation pay.
286a. Regular warrant officers: separation pay.
287. Separation for failure of selection for promotion or continuation; time of.
288. Regular captains; retirement.
289. Captains; continuation on active duty; involuntary retirement.
290. Rear admirals and rear admirals (lower half); continuation on active duty; involuntary retirement.
291. Voluntary retirement after twenty years' service.
292. Voluntary retirement after thirty years' service.
293. Compulsory retirement at age of sixty-two.
294. Retirement for physical disability after selection for promotion; grade in which retired.
295. Deferment of retirement or separation for medical reasons.
[301 to 315. Repealed.]

E. SEPARATION FOR CAUSE

321. Review of records of officers.
322. Boards of inquiry.
323. Boards of review.
324. Composition of boards.
325. Rights and procedures.
326. Removal of officer from active duty; action by Secretary.

[1] So in original. Probably should be followed by a period.

Sec.
327. Officers considered for removal; retirement or discharge; separation benefits.

F. MISCELLANEOUS PROVISIONS

331. Recall to active duty during war or national emergency.
332. Recall to active duty with consent of officer.
333. Relief of retired officer promoted while on active duty.
334. Grade on retirement.
335. Physical fitness of officers.
336. United States Coast Guard Band; composition; director.

ENLISTED MEMBERS

350. Recruiting campaigns.
351. Enlistments; term, grade.
352. Promotion.
353. Compulsory retirement at age of sixty-two.
354. Voluntary retirement after thirty years' service.
355. Voluntary retirement after twenty years' service.
[356. Repealed.]
357. Involuntary retirement of enlisted members.
[358. Repealed.]
359. Recall to active duty during war or national emergency.
360. Recall to active duty with consent of member.
361. Relief of retired enlisted member promoted while on active duty.
362. Retirement in cases where higher grade or rating has been held.
[363, 364. Repealed.]
365. Extension of enlistments.
366. Retention beyond term of enlistment in case of disability.
367. Detention beyond term of enlistment.
[368. Repealed.]
369. Inclusion of certain conditions in enlistment contract.
370. Discharge within three months before expiration of enlistment.
371. Aviation cadets; procurement; transfer.
372. Aviation cadets; benefits.
373. Aviation cadets; appointment as Reserve officers.
374. Critical skill training bonus.

GENERAL PROVISIONS

421. Retirement.
422. Status of recalled personnel.
423. Computation of retired pay.
424. Limitations on retirement and retired pay.
424a. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution.
425. Board for Correction of Military Records deadline.

SPECIAL PROVISIONS

[431. Repealed.]
432. Personnel of former Lighthouse Service.
[433 to 440. Repealed.]

HISTORICAL AND REVISION NOTES

This chapter, dealing with the appointment, enlistment, promotion, retirement and recall of all military personnel, covers subject matter which has been greatly affected by war-time legislation and, therefore, has required rather extensive rewriting of existing law in order to correlate all of the various provisions. An attempt has been made to provide for enlisted men and warrant officers in a manner similar to the way that commissioned officers are provided for; for example, the act of February 21, 1946, ch. 34, 60 Stat. 29 (title 14, U.S.C., 1946 ed., §162a), made provision for the retirement of commissioned officers on half pay after twenty years naval service, and a prewar statute provided for twenty year retirement of enlisted men on half pay. This leaves warrant officers the only military group not eligible for retirement in twenty years, and a provision such as found in section 305 of this title, granting such retirement, seems clearly indicated in order to avoid unjust discrimination.

The subject matter seemed to break down into the sub-heads of ''Commissioned Officers'', ''Warrant Officers'', ''Enlisted Men'', and ''General Provisions''. Each of the first three sub-heads parallels the other two, insofar as the applicability of statutes of the three groups permits. The last sub-head includes the broad provisions which, in the same terms, can be made applicable to all military personnel. In accord with existing Navy and Coast Guard law, the term ''commissioned officer'' includes commissioned warrant officers unless specifically excepted, or manifestly inapplicable. Heretofore Coast Guard statutes have designated commissioned warrant officers as chief warrant officers; in line with Navy designation it is changed to commissioned warrant officers throughout this title. Terms such as ''Coast Guard personnel'' or ''personnel of the Coast Guard'', as used throughout this title, are intended to include all employees of the Service, civilian and military. 81st Congress, House Report No. 557.

AMENDMENTS

2006—Pub. L. 109–241, title II, §215(b), July 11, 2006, 120 Stat. 525, added item 216.

2004—Pub. L. 108–293, title II, §204(b), Aug. 9, 2004, 118 Stat. 1032, added item 374.

2002—Pub. L. 107–295, title IV, §§416(b), 444(b), Nov. 25, 2002, 116 Stat. 2122, 2133, substituted ''five'' for ''three'' in item 281 and ''separation'' for ''severance'' in items 286, 286a, and 327 and added item 424a.

1996—Pub. L. 104–324, title II, §§209(b), 210(b), 211(b), Oct. 19, 1996, 110 Stat. 3914, 3915, substituted ''Appointment'' for ''Original appointment'' in item 214, struck out item 277 ''Temporary promotions of warrant officers'', and added item 425.

1994—Pub. L. 103–337, div. A, title V, §541(e)(2), (f)(5)(B), Oct. 5, 1994, 108 Stat. 2766, 2767, struck out items 212 ''Original appointment of permanent commissioned warrant officers'' and 213 ''Original appointment of permanent warrant officers (W–1)'' and added item 215.

1991—Pub. L. 102–241, §6(b), Dec. 19, 1991, 105 Stat. 2212, substituted ''Involuntary retirement of enlisted members'' for ''Enlisted Personnel Board'' in item 357.

1986—Pub. L. 99–640, §10(a)(6)(B), Nov. 10, 1986, 100 Stat. 3549, struck out items 431, 433, 434, and 438.

1985—Pub. L. 99–145, title V, §514(c)(2)(B), Nov. 8, 1985, 99 Stat. 629, substituted ''rear admirals (lower half)'' for ''commodores'' in item 290.

1984—Pub. L. 98–557, §§15(a)(4)(B)(ii), (C)(ii), (E)(ii), 17(b)(2)(B), Oct. 30, 1984, 98 Stat. 2865, 2866, 2867, added item 295, in heading preceding item 350 substituted ''MEMBERS'' for ''MEN'', in item 360 substituted ''member'' for ''man'', and in item 361 substituted ''enlisted member'' for ''man''.

1983—Pub. L. 97–417, §2(9)(B), Jan. 4, 1983, 96 Stat. 2086, inserted ''and commodores'' after ''Rear admirals'' in item 290.

1982—Pub. L. 97–322, title I, §115(b)(2), Oct. 15, 1982, 96 Stat. 1585, struck out item 368.

1980—Pub. L. 96–513, title V, §505(a)(2), Dec. 12, 1980, 94 Stat. 2918, added item 286a.

1976—Pub. L. 94–546, §1(18), Oct. 18, 1976, 90 Stat. 2520, added item 256a.

1972—Pub. L. 92–451, §1(9), Oct. 2, 1972, 86 Stat. 757, substituted ''continuation on active duty'' for ''retention on the active list'' in item 290.

1966—Pub. L. 89–444, §1(25), June 9, 1966, 80 Stat. 197, substituted ''Grade on retirement'' for ''Retirement in cases where higher grade has been held'' in item 334, and added items 371, 372, and 373.

1965—Pub. L. 89–189, §1(2), Sept. 17, 1965, 79 Stat. 820, added item 336.

1963—Pub. L. 88–130, §§1(9), (10)(B), 4(c), Sept. 24, 1963, 77 Stat. 175, 177, 193, added items 211 to 214, 251 to 262, 271 to 277, 281 to 294, 321 to 327, 331 to 335, struck out items 221 to 248, 301 to 313a, 435 to 437, 439, and 440, and struck out headings ''COMMISSIONED OFFICERS'' and ''WARRANT OFFICERS'' which preceded sections 221 and 301, respectively, of this title.

Pub. L. 88–114, §1(3), Sept. 6, 1963, 77 Stat. 144, struck out item 358.

1959—Pub. L. 86–155, §10(a)(2), Aug. 11, 1959, 73 Stat. 338, struck out items 239 and 309.

1958—Pub. L. 85–861, §33(b)(2), Sept. 2, 1958, 72 Stat. 1567, added item 440.

1957—Pub. L. 85–144, §§2(b), 3, Aug. 14, 1957, 71 Stat. 367, added item 313a and struck out items 303, 304, 305, 307, 308, and 313.

1956—Act Aug. 10, 1956, ch. 1041, §§7(b), 8(b), 9(b), 70A Stat. 620, 623, added items 350 and 435 to 438, and substituted ''Enlistments; term, grade'' for ''Enlistments'' in item 351.

Act July 20, 1956, ch. 647, §3(b), 70 Stat. 588, added item 439.

1955—Act Aug. 9, 1955, ch. 684, §1(1), 69 Stat. 620, added items 245 to 248.

Act June 8, 1955, ch. 136, §1, 69 Stat. 88, added item 370.

1950—Act Aug. 3, 1950, ch. 536, §4, 64 Stat. 406, struck out items 233, 245, 246, 306, 314, 315, 356, 363, 364, and 425.

YEAR-END STRENGTH FOR ACTIVE DUTY PERSONNEL AND AVERAGE MILITARY TRAINING STUDENT LOADS FOR EACH FISCAL YEAR AFTER FISCAL YEAR 1977; AUTHORIZATION AND APPROPRIATIONS

Pub. L. 94–406, §6, Sept. 10, 1976, 90 Stat. 1236, which had required that Congress set the active duty end strength and average training student loads for each fiscal year for the Coast Guard, appropriations for those years not to be spent relating to those areas until Congress made such determination, was repealed and reenacted as section 661 of this title by Pub. L. 97–295, §§2(20)(A), 6(b), Oct. 12, 1982, 96 Stat. 1302, 1314.

OFFICERS

A. APPOINTMENTS

§211. Original appointment of permanent commissioned officers

(a)(1) The President may appoint permanent commissioned officers in the Regular Coast Guard in grades appropriate to their qualification, experience, and length of service, as the needs of the Coast Guard may require, from among the following categories:

(A) Graduates of the Coast Guard Academy.

(B) Commissioned warrant officers, warrant officers, and enlisted members of the Regular Coast Guard.

(C) Members of the Coast Guard Reserve who have served at least 2 years as such.

(D) Licensed officers of the United States merchant marine who have served 2 or more years aboard a vessel of the United States in the capacity of a licensed officer.

(2) Original appointments under this section in the grades of lieutenant commander and above shall be made by the President by and with the advice and consent of the Senate.

(3) Original appointments under this section in the grades of ensign through lieutenant shall be made by the President alone.

(b) No person shall be appointed a commissioned officer under this section until his mental, moral, physical, and professional fitness to perform the duties of a commissioned officer has been established under such regulations as the Secretary shall prescribe.

(c) Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in such grade. Appointees whose dates of commission are the same shall take precedence with each other as the Secretary shall determine.

(Added Pub. L. 88–130, §1(10)(C), Sept. 24, 1963, 77 Stat. 177; amended Pub. L. 89–444, §1(11), June 9, 1966, 80 Stat. 196; Pub. L. 98–557, §15(a)(3)(B), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 109–241, title II, §217(a), July 11, 2006, 120 Stat. 525.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–241 amended subsec. (a) generally. Prior to amendment, subsec. (a) related to Presidential appointment of commissioned officers in the Regular Coast Guard in grades of ensign or above.

1984—Subsec. (a)(2). Pub. L. 98–557 substituted reference to enlisted members for reference to enlisted men.

1966—Subsec. (a)(4). Pub. L. 89–444 substituted ''two years'' for ''four years''.

SAVINGS PROVISION

Section 5 of Pub. L. 88–130, as amended by Pub. L. 89–444, §3, June 9, 1966, 80 Stat. 198, provided that:

''(a) Officers in each grade who have been recommended as qualified for temporary promotion under laws and regulations in effect the day before the effective date of this Act [Sept. 24, 1963] but not promoted to the grade for which they were recommended shall be placed on a list of selectees in order of their precedence, and they shall be promoted as if they had been selected for promotion in the approved report of a selection board convened under this Act [enacting sections 41a, 211 to 214, 251 to 262, 271 to 277, 281 to 294, 321 to 327, 331 to 335, of this title amending sections 42, 44, 46, 47, 190, 433, 759a, and 791 of this title, and enacting provisions set out as notes under sections 262, 285, and 289 of this title, and repealing sections 221 to 248, 301 to 313a, 435 to 437, 439, and 440 of this title, and act Sept. 21, 1961, 75 Stat. 538, set out as a note under section 435 of this title].

''(b) Officers who have been recommended for promotion to the grade of rear admiral under laws and regulations in effect the day before the effective date of this Act but have not been promoted to that grade shall be promoted as if they had been so recommended in the approved report of a selection board convened under this Act.

''(c) The enactment of this Act does not terminate the appointment of any officer.

''(d) An officer of the Regular Coast Guard who on the day before the effective date of this Act had been promoted to and was serving on active duty in a temporary grade higher than his permanent grade shall be considered to have been promoted to that grade under section 271 of title 14, United States Code.

''(e) An officer of the Regular Coast Guard who was appointed as a temporary commissioned officer under any provision of law in effect prior to the effective date of this Act and who is serving on active duty shall be considered to have been appointed under section 214 of title 14, United States Code, and subject to the provisions thereof. An officer of the Regular Coast Guard who was appointed as a permanent commissioned officer under any provision of law in effect prior to the effective date of this Act [Sept. 24, 1963], and who is serving on active duty shall be considered to have been appointed under section 211 of title 14, United States Code, and subject to the provisions thereof.

''(f) Each officer who would have been required to retire on June 30, 1962, under the provisions of section 288 of title 14, United States Code, had that section been in

effect on that date, shall be retired on the last day of the sixth month following the month in which this Act becomes effective. If, under section 288 of title 14, United States Code, the retirement of any other officer would be required after June 30, 1962, but less than six months following the effective date of this Act, his retirement shall be deferred until the last day of the twelfth month following the month in which this Act becomes effective, or June 30, 1964, whichever is earlier.

''(g) The enactment of this Act does not increase or decrease the retired pay of any person retired on or prior to the effective date of this Act.

''(h) Notwithstanding section 1431 of title 10, United States Code, an original election, change, or revocation of an election, made under that section by an officer who is retired under the provisions of section 282, 283, 284, 285, or 288 of title 14, United States Code, is effective if made prior to the first day of the third month following the month in which this Act is enacted [September 1963].''

[§§ 212, 213. Repealed. Pub. L. 103–337, div. A, title V, § 541(f)(5)(A), Oct. 5, 1994, 108 Stat. 2767]

Section 212, added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 177; amended Pub. L. 98–557, § 15(a)(3)(B), Oct. 30, 1984, 98 Stat. 2865, related to original appointment of permanent commissioned warrant officers in Coast Guard. See section 571 et seq. of Title 10, Armed Forces.

Section 213, added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 178; amended Pub. L. 98–557, § 15(a)(3)(B), Oct. 30, 1984, 98 Stat. 2865, related to original appointment of permanent warrant officers (W–1) in Coast Guard. See section 571 et seq. of Title 10.

EFFECTIVE DATE OF REPEAL

Repeal effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103–337, set out as an Effective Date of 1994 Amendment note under section 571 of Title 10, Armed Forces.

§ 214. Appointment of temporary officers

(a) The President may appoint temporary commissioned officers in the Regular Coast Guard in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers, warrant officers, and enlisted members of the Coast Guard, and from licensed officers of the United States merchant marine.

(b) Temporary appointments under this section do not change the permanent, probationary, or acting status of persons so appointed, prejudice them in regard to promotion or appointment, or abridge their rights or benefits. A person who is appointed under this section may not suffer any reduction in the rate of pay and allowances to which he would have been entitled had he remained in his former grade and continued to receive the increases in pay and allowances authorized for that grade.

(c) An appointment under this section, or a subsequent promotion appointment of a temporary officer, may be vacated by the appointing officer at any time. Each officer whose appointment is so vacated shall revert to his permanent status.

(d) Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their appointments as officers in such grade. Appointees whose dates of appointment are the same shall take precedence with each other as the Secretary shall determine.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 178; amended Pub. L. 89–444, § 1(12)–(14), June 9, 1966, 80 Stat. 196; Pub. L. 93–283, § 1(5), May 14, 1974, 88 Stat. 140; Pub. L. 96–376, § 6, Oct. 3, 1980, 94 Stat. 1509; Pub. L. 98–557, § 15(a)(3)(B), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 103–337, div. A, title V, § 541(f)(6), Oct. 5, 1994, 108 Stat. 2767; Pub. L. 104–324, title II, § 211(a), Oct. 19, 1996, 110 Stat. 3915.)

AMENDMENTS

1996—Pub. L. 104–324, § 211(a)(1), substituted ''Appointment'' for ''Original appointment'' in section catchline.

Subsec. (b). Pub. L. 104–324, § 211(a)(2), redesignated subsec. (d) as (b).

Subsec. (c). Pub. L. 104–324, § 211(a)(2), (3), redesignated subsec. (e) as (c) and inserted '', or a subsequent promotion appointment of a temporary officer,'' after ''section''.

Subsecs. (d) to (f). Pub. L. 104–324, § 211(a)(2), redesignated subsecs. (d) to (f) as (b) to (d), respectively.

1994—Subsecs. (b), (c). Pub. L. 103–337 struck out subsecs. (b) and (c) which read as follows:

''(b) The President may appoint temporary commissioned warrant officers in the Regular Coast Guard, as the needs of the Coast Guard may require, from among the warrant officers and enlisted members of the Coast Guard, and from licensed officers of the United States merchant marine.

''(c) The Secretary may appoint temporary warrant officers (W–1) in the Regular Coast Guard, as the needs of the Coast Guard require, from among the enlisted members of the Coast Guard, and from licensed officers of the United States merchant marine.''

1984—Subsecs. (a) to (c). Pub. L. 98–557 substituted reference to enlisted members for reference to enlisted men wherever appearing.

1980—Subsec. (d). Pub. L. 96–376 substituted prohibition against any reduction in rate of pay and allowances of temporary officer appointee to which appointee would have been entitled had he remained in his former grade and continued to receive the increases in pay and allowances authorized for that grade for prior prohibition against reduction in pay and allowances to which appointee was entitled because of his permanent status at the time of his temporary appointment, or any reduction in pay and allowances to which appointee was entitled under a prior temporary appointment in a lower grade.

1974—Subsec. (d). Pub. L. 93–283 prohibited any reduction in the pay and allowances to which a temporary officer was entitled under a prior temporary appointment in a lower grade.

1966—Subsec. (a). Pub. L. 89–444, § 1(12), added licensed officers of the United States merchant marine to the group from which the President may appoint temporary commissioned officers for the Regular Coast Guard not above lieutenant.

Subsec. (b). Pub. L. 89–444, § 1(13), added licensed officers of the United States merchant marine to the group from which the President may appoint temporary commissioned warrant officers for the Regular Coast Guard.

Subsec. (c). Pub. L. 89–444, § 1(14), added licensed officers of the United States merchant marine to the group from which the Secretary may appoint temporary warrant officers (W–1) in the Regular Coast Guard.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103–337, set out as a note under section 571 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 2 of Pub. L. 93–283 provided that: ''Paragraphs (5) and (8) of section 1 of this Act [amending this sec-

tion and section 288 of this title] are effective as of the original date of enactment [Sept. 24, 1963] of the sections thereby amended.''

TEMPORARY APPOINTMENTS PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(e) of Pub. L. 88–130 considering officers appointed with temporary commissions prior to Sept. 24, 1963, as appointed under this section, are set out as a note under section 211 of this title.

§ 215. Rank of warrant officers

(a) Among warrant officer grades, warrant officers of a higher numerical designation are senior to warrant officer grades of a lower numerical designation.

(b) Warrant officers shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in the Coast Guard in such grade. Precedence among warrant officers of the same grade who have the same date of commission shall be determined by regulations prescribed by the Secretary.

(Added Pub. L. 103–337, div. A, title V, § 541(e)(1), Oct. 5, 1994, 108 Stat. 2766.)

EFFECTIVE DATE

Section effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103–337, set out as an Effective Date of 1994 Amendment note under section 571 of Title 10, Armed Forces.

§ 216. Director of Boating Safety Office

The initial appointment of the Director of the Boating Safety Office shall be in the grade of Captain.

(Added Pub. L. 109–241, title II, § 215(a), July 11, 2006, 120 Stat. 525.)

[§§ 221 to 232. Repealed. Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 221, act Aug. 4, 1949, ch. 393, 63 Stat. 512, authorized filling of vacancies in active list of regular commissioned officers. See sections 251, 271(b) of this title.

Section 222, acts Aug. 4, 1949, ch. 393, 63 Stat. 512; May 14, 1960, Pub. L. 86–474, § 1(16), 74 Stat. 146, related to promotion to flag rank. See section 256 of this title.

Section 223, act Aug. 4, 1949, ch. 393, 63 Stat. 512, related to methods and criteria used in filling of vacancies by promotion. See sections 271, 294, and 335, of this title.

Section 224, act Aug. 4, 1949, ch. 393, 63 Stat. 512, authorized filling of vacancies by appointment. See section 211 et seq. of this title.

Section 225, act Aug. 4, 1949, ch. 393, 63 Stat. 513, authorized President to make permanent appointments. See section 571 et seq. of Title 10, Armed Forces.

Section 226, act Aug. 4, 1949, ch. 393, 63 Stat. 513, authorized appointment of temporary commissioned officers. See section 214 of this title.

Section 227, acts Aug. 4, 1949, ch. 393, 63 Stat. 514; May 5, 1950, ch. 169, § 15, 64 Stat. 148, related to promotion and discharge of temporary commissioned officers. See sections 275, 284 of this title.

Section 228, act Aug. 4, 1949, ch. 393, 63 Stat. 514, authorized appointment of commissioned warrant officers. See section 571 et seq. of Title 10, Armed Forces.

Section 229, act Aug. 4, 1949, ch. 393, 63 Stat. 514, related to revocation of commissions during first three years of service. See section 281 et seq. of this title.

Section 230, acts Aug. 4, 1949, ch. 393, 63 Stat. 514; May 29, 1954, ch. 249, § 19(h), 68 Stat. 167, related to compulsory retirement of commissioned officers, with exception of commissioned warrant officers, at age 62. See section 293 of this title.

Section 231, act Aug. 4, 1949, ch. 393, 63 Stat. 514, related to voluntary retirement after 30 years service. See section 292 of this title.

Section 232, acts Aug. 4, 1949, ch. 393, 63 Stat. 514; Aug. 4, 1955, ch. 553, § 2, 69 Stat. 493, related to voluntary retirement after 20 years service. See section 291 of this title.

[§ 233. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 515, related to retirement for disabilities incident to service. See sections 1204 and 1376 of Title 10, Armed Forces.

ADDITIONAL REPEAL

Section was also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§§ 234 to 238. Repealed. Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 234, acts Aug. 4, 1949, ch. 393, 63 Stat. 515; Aug. 3, 1950, ch. 536, § 5, 64 Stat. 406, related to retirement for failure in physical examination for promotion. See section 294 of this title.

Section 235, act Aug. 4, 1949, ch. 393, 63 Stat. 515, related to designation and assembly of a personnel board, its procedure and its recommendations. See sections 251 to 254 of this title.

Section 236, act Aug. 4, 1949, ch. 393, 63 Stat. 516, related to involuntary retirement after 30 years' service.

Section 237, act Aug. 4, 1949, ch. 393, 63 Stat. 516, related to involuntary retirement after 10 years' service.

Section 238, act Aug. 4, 1949, ch. 393, 63 Stat. 516, related to voluntary retirement when out of line of promotion.

[§ 239. Repealed. Pub. L. 86–155, § 10(a)(1), Aug. 11, 1959, 73 Stat. 338]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 516; Aug. 3, 1950, ch. 536, § 6, 64 Stat. 406, authorized advancement to a higher grade upon retirement in case of special commendation.

EFFECTIVE DATE OF REPEAL

Section 10(b) of Pub. L. 86–155 provided that repeal of this section and section 309 of this title shall become effective on Nov. 1, 1959.

ADDITIONAL REPEAL

Section was also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§§ 240 to 244. Repealed. Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 240, acts Aug. 4, 1949, ch. 393, 63 Stat. 517; Aug. 3, 1950, ch. 536, § 7, 64 Stat. 407, authorized recall of retired officers in time of war or national emergency. See section 331 of this title.

Section 241, acts Aug. 4, 1949, ch. 393, 63 Stat. 517; Aug. 3, 1950, ch. 536, § 8, 64 Stat. 407, related to recall to active duty with the consent of the officer. See section 332 of this title.

Section 242, acts Aug. 4, 1949, ch. 393, 63 Stat. 517; Aug. 3, 1950, ch. 536, § 9, 64 Stat. 407, related to relief of retired officers promoted while on active duty. See section 333 of this title.

Section 243, acts Aug. 4, 1949, ch. 393, 63 Stat. 517; Aug. 3, 1950, ch. 536, § 10, 64 Stat. 407; Aug. 14, 1957, Pub. L. 85–144, § 1, 71 Stat. 366, related to retirement in cases where a higher grade has been held. See section 334 of this title.

Section 244, act Aug. 4, 1949, ch. 393, 63 Stat. 517, related to resignation when out of line of promotion.

[§§ 245, 246. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section 245, act Aug. 4, 1949, ch. 393, 63 Stat. 517, related to retiring or dropping for disabilities not incident to service. See section 1207 of Title 10, Armed Forces.

Section 246, act Aug. 4, 1949, ch. 393, 63 Stat. 518, related to dropping for disabilities due to vicious habits. See section 1207 of Title 10.

ADDITIONAL REPEAL

Sections were also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§§ 247, 248. Repealed. Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 247, added act Aug. 9, 1955, ch. 684, § 1(2), 69 Stat. 620; amended May 14, 1960, Pub. L. 86–474, § 1(17), 74 Stat. 146, related to involuntary retirement of rear admirals and to their retention on active list. See section 290 of this title.

Section 248, added act Aug. 9, 1955, ch. 684, § 1(2), 69 Stat. 620, related to involuntary retirement of captains and to their retention on active list. See section 289 of this title.

B. SELECTION FOR PROMOTION

§ 251. Selection boards; convening of boards

At least once a year and at such other times as the needs of the service require, the Secretary shall convene selection boards to recommend for promotion to the next higher grade officers on the active duty promotion list in each grade from lieutenant (junior grade) through captain, with separate boards for each grade. However, the Secretary is not required to convene a board to recommend officers for promotion to a grade when no vacancies exist in the grade concerned, and he estimates that none will occur in the next twelve months.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 178.)

§ 252. Selection boards; composition of boards

A board convened under section 251 of this title shall consist of five or more officers on the active duty promotion list who are serving in or above the grade to which the board may recommend officers for promotion. No officer may be a member of two successive boards convened to consider officers of the same grade for promotion.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179.)

§ 253. Selection boards; notice of convening; communication with board

(a) Before a board is convened under section 251 of this title, notice of the convening date, the promotion zone to be considered, the officers eligible for consideration, and the number of officers the board may recommend for promotion shall be given to the service at large.

(b) Each officer eligible for consideration by a selection board convened under section 251 of this title may send a communication through official channels to the board, to arrive not later than the date the board convenes, inviting attention to any matter of record in the armed forces concerning himself. A communication sent under this section may not criticize any officer or reflect upon the character, conduct, or motive of any officer.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179; amended Pub. L. 89–444, § 1(15), June 9, 1966, 80 Stat. 196.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–444 added officers eligible for consideration to list of items for which notice must be given to the service at large before a board is convened under section 251 of this title.

§ 254. Selection boards; oath of members

Each member of a selection board shall swear that he will, without prejudice or partiality, and having in view both the special fitness of officers and the efficiency of the Coast Guard, perform the duties imposed upon him.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179.)

§ 255. Number of officers to be selected for promotion

Before convening a board under section 251 of this title to recommend officers for promotion to any grade, the Secretary shall determine the total number of officers to be selected for promotion to that grade. This number shall be equal to the number of vacancies existing in the grade, plus the number of additional vacancies estimated for the next twelve months, less the number of officers on the selection list for the grade.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179.)

§ 256. Promotion zones

(a) Before convening a selection board to recommend officers for promotion to any grade above lieutenant (junior grade) and below rear admiral (lower half), the Secretary shall establish a promotion zone for the grade to be considered. The promotion zone for each grade shall consist of the most senior officers of that grade on the active duty promotion list who are eligible for consideration for promotion to the next higher grade and who have not previously been placed in a promotion zone for selection for promotion to the next higher grade. The number of officers in each zone shall be determined after considering—

(1) the needs of the service;

(2) the estimated numbers of vacancies available in future years to provide comparable opportunity for promotion of officers in successive year groups; and

(3) the extent to which current terms of service in that grade conform to a desirable career promotion pattern.

However, such number of officers shall not exceed the number to be selected for promotion divided by six-tenths.

(b) Promotion zones from which officers will be selected for promotion to the grade of rear admiral (lower half) shall be established by the Secretary as the needs of the service require.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179; amended Pub. L. 89–444, § 1(16), June 9,

1966, 80 Stat. 196; Pub. L. 97–417, § 2(3), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 99–145, title V, § 514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 99–661, div. A, title XIII, § 1343(c), Nov. 14, 1986, 100 Stat. 3995.)

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–661 substituted ''rear admiral (lower half)'' for ''commodore''.

1985—Subsec. (a). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore''.

1983—Subsecs. (a), (b). Pub. L. 97–417 substituted ''commodore'' for ''rear admiral''.

1966—Subsec. (a). Pub. L. 89–444 limited promotion zone by requiring that list of officers under consideration be officers eligible for consideration for promotion to next higher grade.

§ 256a. Promotion year; defined

For the purposes of this chapter, ''promotion year'' means the period which commences on July 1 of each year and ends on June 30 of the following year.

(Added Pub. L. 94–546, § 1(17), Oct. 18, 1976, 90 Stat. 2520.)

§ 257. Eligibility of officers for consideration for promotion

(a) An officer on the active duty promotion list becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he completes the following amount of service computed from his date of rank in the grade in which he is serving:

(1) two years in the grade of lieutenant (junior grade);

(2) three years in the grade of lieutenant;

(3) four years in the grade of lieutenant commander;

(4) four years in the grade of commander; and

(5) three years in the grade of captain.

(b) For the purpose of this section, service in a grade includes all qualifying service in that grade or a higher grade, under either a temporary or permanent appointment. However, service in a grade under a temporary service appointment under section 275 of this title is considered as service only in the grade that the officer concerned would have held had he not been so appointed.

(c) No officer may become eligible for consideration for promotion until all officers of his grade senior to him are so eligible.

(d) Except when his name is on a list of selectees, each officer who becomes eligible for consideration for promotion to the next higher grade remains eligible so long as he—

(1) continues on active duty; and

(2) is not promoted to that grade.

(e) An officer whose involuntary retirement or separation is deferred under section 295 of this title is not eligible for consideration for promotion to the next higher grade during the period of that deferment.

(f) The Secretary may waive subsection (a) to the extent necessary to allow officers described therein to have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 179; amended Pub. L. 94–546, § 1(19), Oct. 18, 1976, 90 Stat. 2520; Pub. L. 98–557, § 17(b)(1), Oct. 30, 1984, 98 Stat. 2867; Pub. L. 109–241, title II, § 203, July 11, 2006, 120 Stat. 520.)

AMENDMENTS

2006—Subsec. (f). Pub. L. 109–241 added subsec. (f).

1984—Subsec. (e). Pub. L. 98–557 added subsec. (e).

1976—Subsec. (a). Pub. L. 94–546, § 1(19)(a), substituted ''promotion year'' for ''fiscal year''.

Subsec. (d). Pub. L. 94–546, § 1(19)(b), struck out cl. (3) ''if serving in a grade below captain, has not twice failed of selection for promotion to the next higher grade.''

§ 258. Selection boards; information to be furnished boards

The Secretary shall furnish the appropriate selection board convened under section 251 of this title with:

(1) the number of officers that the board may recommend for promotion to the next higher grade; and

(2) the names and records of all officers who are eligible for consideration for promotion to the grade to which the board will recommend officers for promotion.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 180; amended Pub. L. 89–444, § 1(17), June 9, 1966, 80 Stat. 196; Pub. L. 104–324, title II, § 212, Oct. 19, 1996, 110 Stat. 3915.)

AMENDMENTS

1996—Cl. (2). Pub. L. 104–324 struck out '', with identification of those officers who are in the promotion zone'' after ''officers for promotion''.

1966—Pub. L. 89–444 substituted ''officers who are eligible for consideration for promotion to the grade to which the board will recommend officers for promotion'' for ''officers to be considered by the board'' in cl. 2.

§ 259. Officers to be recommended for promotion

(a) A selection board convened to recommend officers for promotion shall recommend those eligible officers whom the board considers best qualified of the officers under consideration for promotion. No officer may be recommended for promotion unless he receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

(b) The number of officers that a board convened under section 251 of this title may recommend for promotion to a grade below rear admiral (lower half) from among eligible officers junior in rank to the junior officer in the appropriate promotion zone may not exceed—

(1) 5 percent of the total number of officers that the board is authorized to recommend for promotion to the grade of lieutenant or lieutenant commander;

(2) 7½ percent of the total number of officers that the board is authorized to recommend for promotion to the grade of commander; and

(3) 10 percent of the total number of officers that the board is authorized to recommend for promotion to the grade of captain;

unless such percentage is a number less than one, in which case the board may recommend one such officer for promotion.

(c)(1) After selecting the officers to be recommended for promotion, a selection board may recommend officers of particular merit, from among those officers chosen for promotion, to be placed at the top of the list of selectees promulgated by the Secretary under section 271(a) of this title. The number of officers that a board may recommend to be placed at the top of the list of selectees may not exceed the percentages set forth in subsection (b) unless such a percentage is a number less than one, in which case the board may recommend one officer for such placement. No officer may be recommended to be placed at the top of the list of selectees unless he or she receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

(2) The Secretary shall conduct a survey of the Coast Guard officer corps to determine if implementation of this subsection will improve Coast Guard officer retention. A selection board may not make any recommendation under this subsection before the date on which the Secretary publishes a finding, based upon the results of the survey, that implementation of this subsection will improve Coast Guard officer retention.

(3) The Secretary shall submit any finding made by the Secretary pursuant to paragraph (2) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 180; amended Pub. L. 97–417, § 2(4), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 99–145, title V, § 514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 107–295, title III, § 313(1), Nov. 25, 2002, 116 Stat. 2102.)

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–295 added subsec. (c).

1985—Subsec. (b). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore''.

1983—Subsec. (b). Pub. L. 97–417 substituted ''commodore'' for ''real admiral''.

§ 260. Selection boards; reports

(a) Each board convened under section 251 of this title shall submit a report in writing, signed by all the members thereof, containing the names of the officers recommended for promotion and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 271(a) of this title.

(b) A board convened under section 251 of this title shall certify that, in the opinion of at least a majority of the members if the board has five members, or in the opinion of at least two-thirds of the members if the board has more than five members, the officers recommended for promotion are the best qualified for promotion of those officers whose names have been furnished to the board.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 180; amended Pub. L. 107–295, title III, § 313(2), Nov. 25, 2002, 116 Stat. 2103.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–295 inserted ''and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 271(a) of this title'' before period at end.

§ 261. Selection boards; submission of reports

(a) A board convened under section 251 of this title shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in revision and resubmission to the Secretary. After his final review, the Secretary shall submit the report of the board to the President for his approval, modification, or disapproval.

(b) If any officer recommended for promotion is not acceptable to the President, the President may remove the name of that officer from the report of the board.

(c) Upon approval by the President the names of officers selected for promotion by a board convened under section 251 of this title shall be promptly disseminated to the service at large.

(d) Except as required by this section, the proceedings of a selection board shall not be disclosed to any person not a member of the board.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 181.)

§ 262. Failure of selection for promotion

(a) An officer, other than an officer serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for his grade under section 256 of this title, fails of selection if he is not selected for promotion by the selection board which considered him, or if having been recommended for promotion by the board, his name is thereafter removed from the report of the board by the President.

(b) An officer shall not be considered to have failed of selection if he was not considered by a selection board because of administrative error. If he is selected by the next succeeding selection board and promoted, he shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held had he been recommended by the first selection board.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 181.)

PLACEMENT OUT OF LINE OF PROMOTION PRIOR TO SEPTEMBER 24, 1963

Section 2(a), (b) of Pub. L. 88–130 provided that:

''(a) Officers who have been placed permanently out of line of promotion under laws and regulations of the Secretary in effect the day before the effective date of this Act [Sept. 24, 1963] shall be considered as having failed of selection for promotion to the next higher grade for the second time on the day before the effective date of this Act, and shall be subject to the provisions of sections 282 through 285 of title 14, United States Code, as appropriate. No officer shall be separated from the service under the above provisions prior to the last day of the sixth calendar month following the effective date of this Act.

''(b) Officers who have been placed temporarily out of line of promotion for appointment for temporary service under laws and regulations of the Secretary in effect the day before the effective date of this Act [Sept.

24, 1963] shall be considered as having once failed of selection for promotion to the next higher grade.''

C. PROMOTIONS

§271. Promotions; appointments

(a) When the report of a board convened to recommend officers for promotion has been approved by the President, the Secretary shall place the names of all officers selected and approved on a list of selectees in the order of their seniority on the active duty promotion list. The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.

(b) Officers on the list of selectees may be promoted by appointment in the next higher grade to fill vacancies in the authorized active duty strength of the grade as determined under section 42 of this title after officers on any previous list of selectees for that grade have been promoted. Officers shall be promoted in the order that their names appear on the list of selectees. The date of rank of an officer promoted under this subsection shall be the date of his appointment in that grade.

(c) An officer serving on active duty in the grade of ensign may, if found fully qualified for promotion in accordance with regulations prescribed by the Secretary, be promoted to the grade of lieutenant (junior grade) by appointment after he has completed twelve months' active service in grade. The date of rank of an officer promoted under this subsection shall be the date of his appointment in the grade of lieutenant (junior grade) as specified by the Secretary.

(d) When a vacancy in the grade of rear admiral occurs, the senior rear admiral (lower half) serving on the active duty promotion list shall be appointed by the President, by and with the advice and consent of the Senate, to fill the vacancy. The appointment shall be effective on the date the vacancy occurred.

(e) Appointments of regular officers under this section shall be made by the President, by and with the advice and consent of the Senate except that advice and consent is not required for appointments under this section in the grade of lieutenant (junior grade) or lieutenant. Appointments of Reserve officers shall be made as prescribed in section 12203 of title 10.

(f) The promotion of an officer who is under investigation or against whom proceedings of a court-martial or a board of officers are pending may be delayed without prejudice by the Secretary until completion of the investigation or proceedings. However, unless the Secretary determines that a further delay is necessary in the public interest, a promotion may not be delayed under this subsection for more than one year after the date the officer would otherwise have been promoted. An officer whose promotion is delayed under this subsection and who is subsequently promoted shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held had his promotion not been so delayed.

(Added Pub. L. 88–130, §1(10)(C), Sept. 24, 1963, 77 Stat. 181; amended Pub. L. 91–278, §1(8), June 12, 1970, 84 Stat. 305; Pub. L. 97–417, §2(5), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 99–145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 101–225, title II, §203(2), Dec. 12, 1989, 103 Stat. 1911; Pub. L. 103–337, div. A, title XVI, §1677(b)(2), Oct. 5, 1994, 108 Stat. 3020; Pub. L. 107–295, title III, §313(3), Nov. 25, 2002, 116 Stat. 2103.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–295 inserted at end ''The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.''

1994—Subsec. (e). Pub. L. 103–337 substituted ''section 12203 of title 10'' for ''section 593 of title 10''.

1989—Subsec. (e). Pub. L. 101–225 inserted ''except that advice and consent is not required for appointments under this section in the grade of lieutenant (junior grade) or lieutenant'' before the period at end of first sentence.

1985—Subsec. (d). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore''.

1983—Subsec. (c). Pub. L. 97–417, §2(5)(A), inserted a comma after ''ensign may''.

Subsecs. (d) to (f). Pub. L. 97–417, §2(5)(B), (C), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1970—Subsec. (c). Pub. L. 91–278 substituted ''twelve'' for ''eighteen''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

PERMANENT GRADES AND TITLES FOR OFFICERS HOLDING CERTAIN GRADES ON JANUARY 3, 1983

Section 4 of Pub. L. 97–417 provided that:

''(a) An officer of the Coast Guard who on the day before the effective date of this Act [Jan. 4, 1983]—

''(1) was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the upper half; or

''(2) was serving on active duty in the grade of admiral or vice admiral,

shall after that date hold the permanent grade of rear admiral.

''(b) An officer who on the day before the effective date of this Act [Jan. 4, 1983] was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the lower half shall after that date hold the permanent grade of commodore, but shall retain the title of rear admiral.

''(c) An officer who on the day before the effective date of this Act [Jan. 4, 1983] was on an approved list of officers recommended for promotion to the grade of rear admiral shall, upon promotion, hold the grade of commodore with the title of rear admiral.

''(d) An officer who on the day before the effective date of this Act [Jan. 4, 1983]—

''(1) was serving on active duty in the grade of rear admiral and was entitled to the basic pay of a rear admiral of the lower half; or

''(2) was on an approved list of officers recommended for promotion to the grade of rear admiral,

shall, on and after the effective date of this Act, or in the case of an officer on such a list, upon promotion to the grade of commodore, be entitled to wear the uniform and insignia of a rear admiral.

''(e) An officer of the Coast Guard who on the day before the effective date of this Act [Jan. 4, 1983] held the grade of rear admiral on the retired list retains the grade of rear admiral and is entitled after that date to

wear the uniform and insignia of a rear admiral. Such an officer, when ordered to active duty—

''(1) holds the grade and has the right to wear the uniform and insignia of a rear admiral; and

''(2) ranks among commissioned officers of the Armed Forces as and is entitled to the basic pay of—

''(A) a commodore, if his retired pay was based on the basic pay of a rear admiral of the lower half on the day before the effective date of this Act; or

''(B) a rear admiral, if his retired pay was based on the basic pay of a rear admiral of the upper half on the day before the effective date of this Act.

''(f) Unless entitled to a higher grade under another provision of law, an officer who on the day before the effective date of this Act [Jan. 4, 1983]—

''(1) was serving on active duty, and

''(2) held the grade of rear admiral;

and who retires on or after the effective date of this Act, retires in the grade of rear admiral and is entitled to wear the uniform and insignia of a rear admiral. If such an officer is ordered to active duty after his retirement, he is considered, for the purposes of determining his pay, uniform, insignia, and rank among other commissioned officers, as having held the grade of rear admiral on the retired list on the day before the effective date of this Act.''

TEMPORARY GRADES AND RECOMMENDATIONS FOR PROMOTIONS IN EFFECT PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(a), (b), and (d) of Pub. L. 88–130, protecting officers recommended for promotion or serving in temporary grade higher than permanent grade, are set out as a note under section 211 of this title.

§ 272. Removal of officer from list of selectees for promotion

(a) The President may remove the name of any officer from a list of selectees established under section 271 of this title.

(b) If the Senate does not consent to the appointment of an officer whose name is on a list of selectees established under section 271 of this title, that officer's name shall be removed from this list.

(c) An officer whose name is removed from a list under subsection (a) or (b) continues to be eligible for consideration for promotion. If he is selected for promotion by the next selection board and promoted, he shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held if his name had not been removed. However, if the officer is not selected by the next selection board or if his name is again removed from the list of selectees, he shall be considered for all purposes as having twice failed of selection for promotion.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 182.)

§ 273. Promotions; acceptance; oath of office

(a) An officer who receives an appointment under section 271 of this title is considered to have accepted his appointment on its effective date, unless he expressly declines the appointment.

(b) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon his appointment in a higher grade.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 182; amended Pub. L. 94–546, § 1(20), Oct. 18, 1976, 90 Stat. 2520.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–546 substituted reference to section 3331 of title 5 for reference to section 16 of title 5.

§ 274. Promotions; pay and allowances

An officer who is promoted under section 271 of this title shall be entitled to the pay and allowances of the grade to which promoted from his date of rank in such grade.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 182.)

§ 275. Wartime temporary service promotions

(a) In time of war, or of national emergency declared by the President or Congress, the President may suspend any section of this chapter relating to the selection, promotion, or involuntary separation of officers. Such a suspension may not continue beyond six months after the termination of the war or national emergency.

(b) When the preceding sections of this chapter relating to selection and promotion of officers are suspended in accordance with subsection (a), and the needs of the service require, the President may, under regulations prescribed by him, promote to a higher grade any officer serving on active duty in the grade of ensign or above in the Coast Guard.

(c) In time of war, or of national emergency declared by the President or Congress, the President may, under regulations to be prescribed by him, promote to the next higher warrant officer grade any warrant officer serving on active duty in a grade below chief warrant officer, W–4.

[(d) Repealed. Pub. L. 97–417, § 2(6), Jan. 4, 1983, 96 Stat. 2085.]

(e) A promotion under this section to a grade above lieutenant may be made only upon the recommendation of a board of officers convened for that purpose.

(f) A promotion under this section shall be made by an appointment for temporary service. Original appointments under this section in the grades of lieutenant commander and above shall be made by the President by and with the advice and consent of the Senate. Original appointments under this section in the grades of ensign through lieutenant shall be made by the President alone. Any other appointments under this section shall be made by the President alone.

(g) An appointment under this section, unless expressly declined, is regarded as accepted on the date specified by the Secretary as the date of the appointment, and the officer so promoted is entitled to pay and allowances of the grade to which appointed from that date.

(h) An appointment under this section does not terminate any appointments held by an officer concerned under any other provisions of this title. The President may terminate temporary appointments made under this section at any time. An appointment under this section is effective for such period as the President determines. However, an appointment may not be effective later than six months after the end of the war or national emergency. When his temporary appointment under this section is terminated or expires, the officer shall revert to his former grade.

(i) Not later than six months after the end of the war or national emergency the President shall, under such regulations as he may prescribe, reestablish the active duty promotion list with adjustments and additions appropriate to the conditions of original appointment and wartime service of all officers to be included thereon. The President may, by and with the advice and consent of the Senate, appoint officers on the reestablished active duty promotion list to fill vacancies in the authorized active duty strength of each grade. Such appointments shall be considered to have been made under section 271 of this title.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 182; amended Pub. L. 92–129, title VI, § 605, Sept. 28, 1971, 85 Stat. 362; Pub. L. 97–417, § 2(6), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 109–241, title II, § 217(b), July 11, 2006, 120 Stat. 526.)

AMENDMENTS

2006—Subsec. (f). Pub. L. 109–241 substituted ''Original appointments under this section in the grades of lieutenant commander and above shall be made by the President by and with the advice and consent of the Senate. Original appointments under this section in the grades of ensign through lieutenant shall be made by the President alone.'' for ''An appointment under this section to a grade above captain shall be made by the President by and with the advice and consent of the Senate. An appointment under this section to grade above lieutenant commander of an officer in the Coast Guard Reserve shall be made by the President, by and with the advice and consent of the Senate.''

1983—Subsec. (d). Pub. L. 97–417 repealed subsec. (d) which had established the grade of commodore in the Coast Guard for the purposes of this section.

1971—Subsec. (f). Pub. L. 92–129 inserted provision covering appointments of officers in the Coast Guard Reserve to grades above lieutenant commander.

DELEGATION OF AUTHORITY

Authority of President under subsec. (a) of this section as invoked by section 2 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, delegated to Secretary of Homeland Security by section 5 of Ex. Ord. No. 13223, set out as a note under section 12302 of Title 10, Armed Forces.

§ 276. Promotion of officers not included on active duty promotion list

Officers who are not included on the active duty promotion list may be promoted under regulations to be prescribed by the Secretary. These regulations shall, as to officers serving in connection with organizing, administering, recruiting, instructing, or training the reserve components, provide as nearly as practicable, that such officers will be selected and promoted in the same manner and will be afforded equal opportunity for promotion as officers of the corresponding grade on the active duty promotion list.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 183.)

[§ 277. Repealed. Pub. L. 104–324, title II, § 210(a), Oct. 19, 1996, 110 Stat. 3915]

Section, added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 183, provided that warrant officers could be temporarily promoted to higher warrant officer grades under regulations prescribed by Secretary.

CONSTRUCTION OF REPEAL

Section 210(a) of Pub. L. 104–324 provided that: ''Section 277 of title 14, United States Code, is repealed. The repeal of such section shall not be construed to affect the status of any warrant officer currently serving under a temporary promotion.''

D. DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS

§ 281. Revocation of commissions during first five years of commissioned service

The Secretary, under such regulations as he may prescribe, may revoke the commission of any regular officer on active duty who, at the date of such revocation, has had less than five years of continuous service as a commissioned officer in the Regular Coast Guard.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 183; amended Pub. L. 107–295, title IV, § 416(a)(1), Nov. 25, 2002, 116 Stat. 2121.)

AMENDMENTS

2002—Pub. L. 107–295 substituted ''five'' for ''three'' in section catchline and text.

§ 282. Regular lieutenants (junior grade); separation for failure of selection for promotion

Each officer of the Regular Coast Guard appointed under section 211 of this title who is serving in the grade of lieutenant (junior grade) and who has failed of selection for promotion to the grade of lieutenant for the second time, shall:

(1) be honorably discharged on June 30 of the promotion year in which his second failure of selection occurs; or

(2) if he so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if he were discharged on that date under clause (1); or

(3) if, on the date specified for his discharge in this section, he is eligible for retirement under any law, be retired on that date.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 184; amended Pub. L. 94–546, § 1(21), Oct. 18, 1976, 90 Stat. 2520.)

AMENDMENTS

1976—Pub. L. 94–546 substituted ''promotion year'' for ''fiscal year'' in cl. (1).

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

EFFECTIVENESS OF ELECTION, CHANGE, OR REVOCATION OF ELECTION OF ANNUITY

Savings provisions in section 5(h) of Pub. L. 88–130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

§ 283. Regular lieutenants; separation for failure of selection for promotion; continuation

(a) Each officer of the Regular Coast Guard appointed under section 211 of this title who is

serving in the grade of lieutenant and who has failed of selection for promotion to the grade of lieutenant commander for the second time shall:

(1) be honorably discharged on June 30 of the promotion year in which his second failure of selection occurs; or

(2) if he so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if he were discharged on that date under clause (1); or

(3) if, on the date specified for his discharge in this section, he has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date; or

(4) if, on the date specified for his discharge in clause (1), he has completed at least eighteen years of active service, be retained on active duty and retired on the last day of the month in which he completes twenty years of active service, unless earlier removed under another provision of law.

(b)(1) When the needs of the service require, the Secretary may direct a selection board, which has been convened under section 251 of this title, to recommend for continuation on active duty for terms of not less than two nor more than four years a designated number of officers of the grade of lieutenant who would otherwise be discharged or retired under this section. When so directed, the board shall recommend for continuation on active duty those officers under consideration who are, in the opinion of the board, best qualified for continuation. Each officer so recommended may, with the approval of the Secretary, and notwithstanding subsection (a), be continued on active duty for the term recommended.

(2) Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—

(A) except as provided in subparagraph (B), be honorably discharged with separation pay computed under section 286 of this title;

(B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes 20 years of active service, unless earlier removed under another provision of law; or

(C) if, on the date specified for the officer's discharge under this section, the officer has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date.

(c) Each officer who has been continued on active duty under subsection (b) shall, unless earlier removed from active duty, be retired on the last day of the month in which he completes twenty years of active service.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 184; amended Pub. L. 93–283, § 1(6), May 14, 1974, 88 Stat. 140; Pub. L. 94–546, § 1(22), Oct. 18, 1976, 90 Stat. 2520; Pub. L. 97–295, § 2(9), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 104–324, title II, § 205, Oct. 19, 1996, 110 Stat. 3907; Pub. L. 107–295, title IV, § 416(a)(2), Nov. 25, 2002, 116 Stat. 2121.)

AMENDMENTS

2002—Subsec. (b)(2)(A). Pub. L. 107–295 substituted ''separation'' for ''severance''.

1996—Subsec. (b). Pub. L. 104–324 designated existing provisions as par. (1), struck out ''Upon the completion of such a term he shall, unless selected for further continuation, be honorably discharged with severance pay computed under section 286 of this title, or, if eligible for retirement under any law, be retired.'' at end of par. (1), and added par. (2).

1982—Subsec. (b). Pub. L. 97–295 substituted ''of this title'' for ''of this chapter'' after ''section 251''.

1976—Subsec. (a)(1). Pub. L. 94–546 substituted ''promotion year'' for ''fiscal year''.

1974—Subsec. (a)(3). Pub. L. 93–283 substituted ''he has completed at least 20 years of active service or is eligible'' for ''he is eligible''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–295 effective 4 years after Nov. 25, 2002, see section 416(c) of Pub. L. 107–295, set out as a note under section 286 of this title.

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

EFFECTIVENESS OF ELECTION, CHANGE, OR REVOCATION OF ELECTION OF ANNUITY

Savings provisions in section 5(h) of Pub. L. 88–130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

§ 284. Regular Coast Guard; officers serving under temporary appointments

(a) Each officer of the Regular Coast Guard appointed under section 214 of this title who is serving in the grade of lieutenant (junior grade) or lieutenant and who has failed of selection for promotion to the grade of lieutenant or lieutenant commander, respectively, for the second time shall:

(1) be honorably discharged on June 30 of the promotion year in which his second failure of selection occurs; or

(2) if he so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if he were discharged on that date under clause (1); or

(3) if on the date specified for his discharge in this section he is eligible for retirement under any law, be retired under that law on that date.

(b) Each officer subject to discharge or retirement under subsection (a) may elect to revert to his permanent grade.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 184; amended Pub. L. 94–546, § 1(23), Oct. 18, 1976, 90 Stat. 2520.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94–546 substituted ''promotion year'' for ''fiscal year''.

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired

pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

EFFECTIVENESS OF ELECTION, CHANGE, OR REVOCATION OF ELECTION OF ANNUITY

Savings provisions in section 5(h) of Pub. L. 88–130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

§285. Regular lieutenant commanders and commanders; retirement for failure of selection for promotion

(a) Each officer of the Regular Coast Guard serving in the grade of lieutenant commander or commander, who has failed of selection for promotion to the grade of commander or captain, respectively, for the second time shall:

(1) if he has completed at least 20 years of active service or is eligible for retirement under any law on June 30 of the promotion year in which his second failure of selection occurs, be retired on that date; or

(2) if ineligible for retirement on the date specified in clause (1) be retained on active duty and retired on the last day of the month in which he completes twenty years of active service, unless earlier removed under another provision of law.

(b) A lieutenant commander or commander of the Regular Coast Guard subject to discharge or retirement under subsection (a) may be continued on active duty when the Secretary directs a selection board convened under section 251 of this title to continue up to a specified number of lieutenant commanders or commanders on active duty. When so directed, the selection board shall recommend those officers who in the opinion of the board are best qualified to advance the needs and efficiency of the Coast Guard. When the recommendations of the board are approved by the Secretary, the officers recommended for continuation shall be notified that they have been recommended for continuation and offered an additional term of service that fulfills the needs of the Coast Guard.

(c)(1) An officer who holds the grade of lieutenant commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 24 years of active commissioned service unless promoted to the grade of commander of the Regular Coast Guard. An officer who holds the grade of commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 26 years of active commissioned service unless promoted to the grade of captain of the Regular Coast Guard.

(2) Unless retired or discharged under another provision of law, each officer who is continued on active duty under subsection (b) but is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher grade, shall, if eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which the period of continued service is completed.

(Added Pub. L. 88–130, §1(10)(C), Sept. 24, 1963, 77 Stat. 185; amended Pub. L. 93–283, §1(7), May 14, 1974, 88 Stat. 140; Pub. L. 94–546, §1(24), Oct. 18, 1976, 90 Stat. 2521; Pub. L. 107–295, title IV, §412, Nov. 25, 2002, 116 Stat. 2118.)

AMENDMENTS

2002—Pub. L. 107–295 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1976—Pub. L. 94–546 substituted ''promotion year'' for ''fiscal year'' in cl. (1).

1974—Pub. L. 93–283 substituted ''if he has completed at least 20 years of active service or is eligible'' for ''if eligible'' in cl. (1).

INTERIM AUTHORITY FOR SELECTION OF COMMANDERS AND CAPTAINS FOR CONTINUATION ON ACTIVE DUTY

Section 3 of Pub. L. 88–130 authorized the Secretary, until July 1, 1966, to convene boards to recommend for continuation on active duty officers of the Coast Guard on the active duty promotion list in specified categories.

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

EFFECTIVENESS OF ELECTION, CHANGE, OR REVOCATION OF ELECTION OF ANNUITY

Savings provisions in section 5(h) of Pub. L. 88–130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

§286. Discharge in lieu of retirement; separation pay

(a) Each officer who is retained on active duty under section 283(a)(4), 283(b), or 285 of this title may, if he so requests, with the approval of the Secretary, be honorably discharged at any time prior to the date otherwise specified for his retirement or discharge.

(b) An officer of the Regular Coast Guard who is discharged under this section or section 282, 283, or 284 of this title and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

(c) An officer of the Regular Coast Guard who is discharged under section 327 of this title and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10 as determined under regulations promulgated by the Secretary.

(d) Notwithstanding subsections (a) and (b), an officer discharged under chapter 11 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer requested in writing or otherwise sought not to be selected for promotion, or requested removal from the list of selectees.

(Added Pub. L. 88–130, §1(10)(C), Sept. 24, 1963, 77 Stat. 185; amended Pub. L. 107–295, title IV, §416(a)(3), Nov. 25, 2002, 116 Stat. 2121.)

AMENDMENTS

2002—Pub. L. 107–295 substituted ''separation'' for ''severance'' in section catchline, added subsecs. (b) to (d), and struck out former subsec. (b) which read as follows: ''Each officer discharged under this section or under section 282, 283, or 284 of this title is entitled to a lump-sum payment computed by multiplying his years of active commissioned service, but not more than twelve, by two months' basic pay of the grade in which he is serving on the date of his discharge. In determining the total number of years of active service to be used as a multiplier in computing this payment, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded. The acceptance of a lump-sum payment under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received payment under this section until the total amount deducted equals the amount of the lump-sum payment.''

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–295, title IV, § 416(c), Nov. 25, 2002, 116 Stat. 2122, provided that: ''The amendments made by paragraphs (2), (3), (4), and (5) of subsection (a) [amending this section and sections 283, 286a, and 327 of this title] shall take effect 4 years after the date of enactment of this Act [Nov. 25, 2002], except that subsection (d) of section 286 of title 14, United States Code, as amended by paragraph (3) of subsection (a) of this section, shall take effect on the date of enactment of this Act and shall apply with respect to conduct on or after that date. The amendments made to the table of sections of chapter 11 of title 14, United States Code, by paragraphs (2), (3), and (4) of subsection (b) [amending the table of sections for this chapter] of this section shall take effect 4 years after the date of enactment of this Act.''

INTERIM AUTHORITY FOR SELECTION OF COMMANDERS AND CAPTAINS FOR CONTINUATION ON ACTIVE DUTY

Section 3(p) of Pub. L. 88–130 authorized officers who failed of selection for continuation to request their discharge with severance pay computed in accordance with this section.

§ 286a. Regular warrant officers: separation pay

(a) A regular warrant officer of the Coast Guard who is discharged under section 580 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

(b) A regular warrant officer of the Coast Guard who is discharged under section 1165 or 1166 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10, as determined under regulations promulgated by the Secretary.

(c) In determining a member's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

(d) The acceptance of severance pay under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received severance pay under this section, until the total deductions equal the amount of such severance pay.

(Added Pub. L. 96–513, title V, § 505(a)(1), Dec. 12, 1980, 94 Stat. 2918; amended Pub. L. 102–190, div. A, title XI, § 1125(b)(1), Dec. 5, 1991, 105 Stat. 1505; Pub. L. 103–337, div. A, title V, § 541(f)(2), Oct. 5, 1994, 108 Stat. 2766; Pub. L. 105–383, title II, § 201(a), (b), Nov. 13, 1998, 112 Stat. 3414; Pub. L. 107–295, title IV, § 416(a)(4), Nov. 25, 2002, 116 Stat. 2121.)

AMENDMENTS

2002—Pub. L. 107–295 substituted ''separation'' for ''severance'' in section catchline, added subsecs. (a) to (c), and struck out former subsecs. (a) to (c) which related to, in subsec. (a), severance pay of a regular warrant officer of the Coast Guard who is separated under section 580(a)(4)(A) of title 10, in subsec. (b), severance pay of a regular warrant officer of the Coast Guard who is separated under section 1166 of title 10, and, in subsec. (c), the calculation of part of the year of service for the purposes of this section.

1998—Subsec. (b). Pub. L. 105–383, § 201(b), inserted before period at end '', unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay''.

Subsec. (d). Pub. L. 105–383, § 201(a), struck out at end ''However, no person is entitled to severance pay under this section in an amount that is more than $15,000.''

1994—Subsec. (a). Pub. L. 103–337 substituted ''section 580(a)(4)(A) of title 10'' for ''section 564(a)(3) of title 10 (as in effect on the day before the effective date of the Warrant Officer Management Act)''.

1991—Subsec. (a). Pub. L. 102–190 inserted ''(as in effect on the day before the effective date of the Warrant Officer Management Act)'' after ''section 564(a)(3) of title 10''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–295 effective 4 years after Nov. 25, 2002, see section 416(c) of Pub. L. 107–295, set out as a note under section 286 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103–337, set out as a note under section 571 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of Title 10, Armed Forces.

EFFECTIVE DATE

Section effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of Title 10, Armed Forces.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513, and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of Title 10, Armed Forces.

§ 287. Separation for failure of selection for promotion or continuation; time of

If, under section 282, 283, 284, 285, 289, or 290 of this title, the discharge or retirement of any officer would be required less than six months following approval of the report of the board which considered but did not select him for promotion or continuation, the discharge or retirement of such officer shall be deferred until the last day of the sixth calendar month after such approval.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 185; amended Pub. L. 92–451, § 1(6), Oct. 2, 1972, 86 Stat. 755.)

AMENDMENTS

1972—Pub. L. 92–451 inserted reference to section 290.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–451 effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92–451, set out as a note under section 290 of this title.

§ 288. Regular captains; retirement

(a) Each officer of the Regular Coast Guard serving in the grade of captain whose name is not carried on an approved list of officers selected for promotion to the grade of rear admiral (lower half) shall, unless retired under some other provision of law, be retired on June 30 of the promotion year in which he, or any captain junior to him on the active duty promotion list who has not lost numbers or precedence, completes thirty years of active commissioned service in the Coast Guard. An officer advanced in precedence on the active duty promotion list because of his promotion resulting from selection for promotion from below the zone is not subject to involuntary retirement under this section earlier than if he had not been selected from below the zone.

(b) Retired pay computed under section 423(a) of this title of an officer retired under this section shall not be less than 50 percent of the basic pay upon which the computation of his retired pay is based.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 185; amended Pub. L. 93–283, § 1(8), May 14, 1974, 88 Stat. 140; Pub. L. 94–546, § 1(25), Oct. 18, 1976, 90 Stat. 2521; Pub. L. 96–342, title VIII, § 813(f)(1), Sept. 8, 1980, 94 Stat. 1109; Pub. L. 97–417, § 2(7), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 99–348, title II, § 205(b)(4), July 1, 1986, 100 Stat. 700; Pub. L. 99–661, div. A, title XIII, § 1343(c), Nov. 14, 1986, 100 Stat. 3995.)

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–661 substituted ''rear admiral (lower half)'' for ''commodore''.

Subsec. (b). Pub. L. 99–348 substituted ''Retired pay computed under section 423(a) of this title'' for ''Except as provided in section 423(b) of this title, the retired pay''.

1983—Subsec. (a). Pub. L. 97–417 substituted ''commodore'' for ''rear admiral''.

1980—Subsec. (b). Pub. L. 96–342 substituted ''Except as provided in section 423(b)'' for ''Notwithstanding section 423''.

1976—Subsec. (a). Pub. L. 94–546 substituted ''promotion year'' for ''fiscal year''.

1974—Subsec. (a). Pub. L. 93–283 prohibited an involuntary retirement under this section of an officer advanced in precedence on the active duty promotion list because of his promotion resulting from selection for promotion from below the zone earlier than if he had not been selected from below the zone.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–283 effective Sept. 24, 1963, see section 2 of Pub. L. 93–283, set out as a note under section 214 of this title.

RETIREMENT, RETIRED PAY, AND ELECTION OF ANNUITY AS AFFECTED BY PUB. L. 88–130

Savings provisions in section 5(f)–(h) of Pub. L. 88–130 relating to retirement, retirement pay, and election, change or revocation of election of an annuity, are set out as a note under section 211 of this title.

INTERIM AUTHORITY FOR SELECTION OF COMMANDERS AND CAPTAINS FOR CONTINUATION ON ACTIVE DUTY

Section 3(a) of Pub. L. 88–130 excluded officers subject to retirement under this section during the fiscal year the selection board convened from being continued on active duty.

§ 289. Captains; continuation on active duty; involuntary retirement

(a) The Secretary may, whenever the needs of the service require, but not more often than annually, convene a board consisting of not less than six officers of the grade of rear admiral (lower half) or rear admiral to recommend for continuation on active duty officers on the active duty promotion list serving in the grade of captain, who during the promotion year in which the board meets will complete at least three years' service in that grade and who have not been selected for promotion to the grade of rear admiral (lower half). Officers who are subject to retirement under section 288 of this title during the promotion year in which the board meets shall not be considered by this board.

(b) Whenever he convenes a board under this section, the Secretary shall establish a continuation zone. The zone shall consist of the most senior captains eligible for consideration for continuation on active duty who have not previously been placed in a continuation zone under this section. The Secretary shall, based upon the needs of the service, prescribe the number of captains to be included in the zone.

(c) Based on the needs of the service the Secretary shall furnish the board with the number of officers that may be recommended for continuation on active duty. This number shall be no less than 50 percent of the number considered. The board shall select from the designated continuation zone, in the number directed by the Secretary, those officers who are, in the opinion of the board, best qualified for continuation on active duty.

(d) The provisions of sections 253, 254, 258, and 260 of this title relating to selection for promotion shall, to the extent that they are not inconsistent with the provisions of this section, apply to boards convened under this section.

(e) The Secretary shall prescribe by regulation the detailed procedures whereby officers in a continuation zone will be selected for continuation on active duty.

(f) A board convened under this section shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in

revision and resubmission to the Secretary. After his final review the Secretary shall submit the report of the board to the President for his approval. Except as required by the procedures of this section, the proceedings of the board shall not be disclosed to any person not a member of the board.

(g) Each officer who is considered but not recommended for continuation on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on June 30 of the promotion year in which the report of the continuation board convened under this section is approved, or the last day of the month in which he completes twenty years of active service, whichever is later.

(h) Notwithstanding subsection (g) and section 288 of this title, the Commandant may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (g) or section 288 of this title. An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in which no action is taken to further retain the officer under this subsection.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 186; amended Pub. L. 94–546, § 1(26), Oct. 18, 1976, 90 Stat. 2521; Pub. L. 97–417, § 2(8), Jan. 4, 1983, 96 Stat. 2085; Pub. L. 99–145, title V, § 514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 101–225, title II, § 203(3), Dec. 12, 1989, 103 Stat. 1911; Pub. L. 104–324, title II, § 203, Oct. 19, 1996, 110 Stat. 3907; Pub. L. 107–295, title IV, § 414, Nov. 25, 2002, 116 Stat. 2120.)

AMENDMENTS

2002—Subsec. (h). Pub. L. 107–295 added subsec. (h).

1996—Subsec. (f). Pub. L. 104–324 struck out ''Upon approval by the President, the names of the officers selected for continuation on active duty by the board shall be promptly disseminated to the service at large.'' after ''for his approval.''

1989—Subsec. (c). Pub. L. 101–225 substituted ''50 percent'' for ''75 percent''.

1985—Subsec. (a). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore'' in two places.

1983—Subsec. (a). Pub. L. 97–417 substituted ''commodore or rear admiral'' for ''rear admiral'' after ''six officers of the grade of'', and ''commodore'' for ''rear admiral'' after ''promotion to the grade of''.

1976—Subsecs. (a), (g). Pub. L. 94–546 substituted ''promotion year'' for ''fiscal year'' wherever appearing.

EFFECTIVE DATE

Section 6 of Pub. L. 88–130 provided that: ''Section 289 of title 14, United States Code, as enacted by section 1(10)(C) of this Act [see section 5(a) of Pub. L. 88–130, set out as a note under section 211 of this title], becomes effective three years after the effective date of this Act [Sept. 24, 1963], or on July 1, 1966, whichever is later.''

CONSIDERATION FOR RETENTION ON ACTIVE DUTY UNDER FORMER SECTION 248 OF THIS TITLE

Section 2(c) of Pub. L. 88–130 provided that: ''Officers who, prior to the effective date of this Act [Sept. 24, 1963], were considered but not selected for retention on active duty under the provisions of section 248, title 14, United States Code, shall remain subject to the provisions of subsections (b) and (c) of that section.''

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

§ 290. Rear admirals and rear admirals (lower half); continuation on active duty; involuntary retirement

(a) The Secretary shall from time to time convene boards to recommend for continuation on active duty the most senior officers on the active duty promotion list serving in the grade of rear admiral (lower half) or rear admiral who have not previously been considered for continuation in that grade. Officers serving for the time being or who have served in the grade of vice admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued in the grade of rear admiral. A board shall consist of at least five officers serving in the grade of vice admiral or as rear admirals previously continued. Boards shall be convened frequently enough to assure that each officer serving in the grade of rear admiral (lower half) or rear admiral is subject to consideration for continuation during a promotion year in which that officer completes not less than four or more than five years combined service in the grades of rear admiral (lower half) and rear admiral.

(b) The Secretary shall, based upon the needs of the service, furnish each board convened under this section with the number of officers to be considered for continuation on active duty. The number that may be recommended for continuation shall be not less than 50 per centum or more than 75 per centum of the number of officers being considered for continuation.

(c) The provisions of sections 253, 254, 258, and 260 of this title relating to selection and continuation boards shall to the extent they are not inconsistent with the provisions of this section, apply to boards convened under this section.

(d) A board convened under this section shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in revision and resubmission to the Secretary. After final review the Secretary shall submit the report of the board to the President for approval.

(e) Each officer who is considered but not continued on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on July 1 of the promotion year immediately following the promotion year in which the report of the continuation board convened under this section is approved.

(f)(1) Unless retired under another provision of law, each officer who is continued on active duty under this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes seven years of combined service in the grades of rear admiral (lower half) and rear admiral, unless that officer is selected for or serving in the grade of admiral or vice admiral or the position of Superintendent of the Coast Guard Academy.

(2) The Commandant, with the approval of the Secretary, may by annual action retain on ac-

tive duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or vice admiral or the position of Superintendent of the Coast Guard Academy, or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

(g)(1) Unless retired under another provision of law, an officer subject to this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes a total of thirty-six years of active commissioned service unless selected for or serving in the grade of admiral.

(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

(Added Pub. L. 88–130, §1(10)(C), Sept. 24, 1963, 77 Stat. 187; amended Pub. L. 92–451, §1(7), Oct. 2, 1972, 86 Stat. 756; Pub. L. 94–546, §1(27), Oct. 18, 1976, 90 Stat. 2521; Pub. L. 97–136, §6(b), Dec. 29, 1981, 95 Stat. 1706; Pub. L. 97–417, §2(9)(A), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 98–557, §25(a)(2), Oct. 30, 1984, 98 Stat. 2872; Pub. L. 99–145, title V, §514(c)(1), (2)(A), Nov. 8, 1985, 99 Stat. 629; Pub. L. 102–241, §5, Dec. 19, 1991, 105 Stat. 2210; Pub. L. 103–206, title II, §205(d), Dec. 20, 1993, 107 Stat. 2422.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–206, §205(d)(1), struck out ''or in the position of Chief of Staff'' before ''are not subject to'' in second sentence.

Subsec. (f). Pub. L. 103–206, §205(d)(2), (3), struck out ''Chief of Staff or'' before ''Superintendent'' in pars. (1) and (2).

1991—Subsec. (a). Pub. L. 102–241, §5(b)(1), substituted ''that officer'' for ''he''.

Subsec. (d). Pub. L. 102–241, §5(b)(2), struck out ''his'' before ''final review'' and ''approval''.

Subsec. (e). Pub. L. 102–241, §5(a)(1), substituted ''July 1 of the promotion year immediately following'' for ''June 30 of''.

Subsecs. (f), (g). Pub. L. 102–241, §5(a)(2), added subsecs. (f) and (g) and struck out former subsecs. (f) and (g), which read as follows:

''(f) Each officer who is continued on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on June 30 of the promotion year in which he completes a total of thirty-six years of active commissioned service, including service creditable for retirement purposes under sections 432, 433, 434 of this title.

''(g) Notwithstanding subsection (f) of this section, the Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (f). An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in which no action is taken to further retain him under this subsection.''

1985—Pub. L. 99–145, §514(c)(2)(A), substituted ''rear admirals (lower half)'' for ''commodores'' in section catchline.

Subsec. (a). Pub. L. 99–145, §514(c)(1), substituted ''rear admiral (lower half)'' for ''commodore'' in three places.

1984—Subsec. (a). Pub. L. 98–557 substituted ''Boards'' for ''Board''.

1983—Pub. L. 97–417, §2(9)(A)(i), inserted ''and commodores'' after ''Rear admirals'' in section catchline.

Subsec. (a). Pub. L. 97–417, §2(9)(A)(ii), substituted ''commodore or rear admiral'' for ''rear admiral'' after ''promotion list serving in the grade of'' and after ''each officer serving in the grade of'', and ''five years combined service in the grades of commodore and rear admiral'' for ''five years service in that grade''.

1981—Subsec. (a). Pub. L. 97–136 inserted ''or in the position of Chief of Staff'' after ''vice admiral''.

1976—Subsecs. (a), (e) to (g). Pub. L. 94–546 substituted ''promotion year'' for ''fiscal year'' wherever appearing.

1972—Pub. L. 92–451 substituted ''continuation on active duty'' for ''retention on the active list'' in section catchline.

Subsecs. (a), (b). Pub. L. 92–451 added subsecs. (a) and (b). Former subsecs. (a) and (b) redesignated (f) and (g), respectively.

Subsec. (c). Pub. L. 92–451 added subsec. (c). Former subsec. (c) provided that provisions of former subsecs. (a) and (b) were inapplicable to officers serving as Commandants.

Subsecs. (d), (e). Pub. L. 92–451 added subsecs. (d) and (e).

Subsec. (f). Pub. L. 92–451 incorporated provisions of former subsec. (a) in provisions designated as subsec. (f), and among other changes extended the minimum service for retirement from 35 years to 36 years of active commissioned service and deleted the alternative seven year permanent grade service.

Subsec. (g). Pub. L. 92–451 incorporated provisions of former subsec. (b) in provisions designated as subsec. (g), and among other changes, substituted officer for rear admiral.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 3 of Pub. L. 92–451 provided that: ''This Act [enacting sections 50 and 51 of this title, and amending this section, sections 41, 42, 44, 47, and 287 of this title, and section 202 of Title 37, Pay and Allowances of the Uniformed Services] is effective upon enactment [Oct. 2, 1972] except that continuation boards, pursuant to subsection (a) of section 290 of title 14, United States Code, as amended by this Act [subsec. (a) of this section], may not be held until one year following enactment hereof [Oct. 2, 1972]. During the period of one year following enactment hereof the Secretary of the Department in which the Coast Guard is operating shall convene a board consisting of not less than three Coast Guard officers serving in the grade of vice admiral to recommend for continuation on active duty Coast Guard officers on the active duty promotion list serving in the grade of rear admiral, who during the fiscal year in which the board meets will complete not less than five years' service in that grade. Subsections (b) through (g) of section 290 and other sections of title 14, United States Code, as amended by this Act [sections 41, 42, 44, 47, 50, 51, and 287 of this title], apply to continuation board action taken pursuant to this section. No officer who is entitled to the basic pay of a rear admiral of the upper half may have his basic pay reduced because of the reduction which results from this Act in the number of officers entitled to the basic pay of a rear admiral of the upper half.''

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

§ 291. Voluntary retirement after twenty years' service

Any regular commissioned officer who has completed twenty years' active service in the Coast Guard, Navy, Army, Air Force, or Marine Corps, or the Reserve components thereof, including active duty for training, at least ten years of which shall have been active commissioned service, may, upon his own application, in the discretion of the President, be retired from active service.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187; amended Pub. L. 99–348, title II, § 205(b)(5), July 1, 1986, 100 Stat. 700.)

AMENDMENTS

1986—Pub. L. 99–348 struck out ", with retired pay of the grade with which retired" after "from active service".

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

§ 292. Voluntary retirement after thirty years' service

Any regular commissioned officer who has completed thirty years' service may, upon his own application, in the discretion of the Secretary, be retired from active service.[1]

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187; amended Pub. L. 99–348, title II, § 205(b)(5), July 1, 1986, 100 Stat. 700.)

AMENDMENTS

1986—Pub. L. 99–348 which directed that ", with retired pay of the grade with which retired" be struck out was executed by striking out that phrase after "from active service" as the probable intent of Congress even though there was no comma, before "with retired".

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130, providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

§ 293. Compulsory retirement at age of sixty-two

Any regular commissioned officer, except a commissioned warrant officer, who has reached the age of sixty-two shall be retired from active service.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187; amended Pub. L. 99–348, title II, § 205(b)(5), July 1, 1986, 100 Stat. 700.)

AMENDMENTS

1986—Pub. L. 99–348 struck out ", with retired pay of the grade with which retired" after "from active service".

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

[1] See 1986 Amendment note below.

§ 294. Retirement for physical disability after selection for promotion; grade in which retired

An officer whose name appears on an approved list of officers selected for promotion to the next higher grade and who is retired for physical disability under the provisions of chapter 61 of title 10 prior to being promoted shall be retired in the grade to which he was selected for promotion.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187.)

RETIRED PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

§ 295. Deferment of retirement or separation for medical reasons

(a) Subject to subsection (b), the Secretary may defer the retirement or separation of a commissioned officer, other than a commissioned warrant officer, if the evaluation of the physical condition of the officer and determination of the officer's entitlement to retirement or separation for physical disability require hospitalization, medical observation, or other physical disability processing that cannot be completed before the date on which the officer would otherwise be retired or separated.

(b) A deferment under subsection (a)—

(1) may only be made with the consent of the officer involved; and

(2) if the Secretary receives written notice from the officer withdrawing that consent, shall end not later than the end of the sixty-day period beginning on the date the Secretary receives that notice.

(Added Pub. L. 98–557, § 17(b)(2)(A), Oct. 30, 1984, 98 Stat. 2867.)

[§§ 301, 302. Repealed. Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 301, act Aug. 4, 1949, ch. 393, 63 Stat. 518, related to permanent appointment of warrant officers. See section 571 et seq. of Title 10, Armed Forces.

Section 302, act Aug. 4, 1949, ch. 393, 63 Stat. 518, related to temporary appointments of warrant officers.

[§§ 303 to 305. Repealed. May 29, 1954, ch. 249, § 20(*o*), 68 Stat. 167]

Section 303, act Aug. 4, 1949, ch. 393, 63 Stat. 518, required compulsory retirement of warrant officers reaching age of sixty-two years, with retired pay of grade with which retired.

Section 304, act Aug. 4, 1949, ch. 393, 63 Stat. 518, provided for voluntary retirement of warrant officers after thirty years' service, with retired pay of grade with which retired.

Section 305, act Aug. 4, 1949, ch. 393, 63 Stat. 518, provided for voluntary retirement after twenty years' service, with retired pay of grade with which retired.

ADDITIONAL REPEAL

Sections were also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§ 306. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 519, related to retirement for disabilities incident to service. See sections 1204 and 1376 of Title 10, Armed Forces.

ADDITIONAL REPEAL

Section was also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§§ 307, 308. Repealed. May 29, 1954, ch. 249, § 20(*o*), 68 Stat. 167]

Section 307, act Aug. 4, 1949, ch. 393, 63 Stat. 519, provided for compulsory retirement of warrant officers after thirty years' service, upon recommendation of a personnel board.

Section 308, act Aug. 4, 1949, ch. 393, 63 Stat. 519, provided for retired pay of warrant officers involuntarily retired under section 307.

ADDITIONAL REPEAL

Sections were also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§ 309. Repealed. Pub. L. 86–155, § 10(a)(1), Aug. 11, 1959, 73 Stat. 338]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 519; Aug. 3, 1950, ch. 536, § 11, 64 Stat. 407, authorized retirement of warrant officers with grade of commissioned warrant officer in case of special commendation.

EFFECTIVE DATE OF REPEAL

Repeal of section effective November 1, 1959, see section 10(b) of Pub. L. 86–155, set out as a note under section 239 of this title.

ADDITIONAL REPEAL

Section was also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§§ 310 to 312. Repealed. Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section 310, acts Aug. 4, 1949, ch. 393, 63 Stat. 519; Aug. 3, 1950, ch. 536, § 12, 64 Stat. 407, related to recall to active duty during war or national emergency of warrant officers. See section 331 of this title.

Section 311, acts Aug. 4, 1949, ch. 393, 63 Stat. 519; Aug. 3, 1950, ch. 536, § 13, 64 Stat. 407, related to recall of warrant officers to active duty with consent of the officer. See section 332 of this title.

Section 312, acts Aug. 4, 1949, ch. 393, 63 Stat. 520; Aug. 3, 1950, ch. 536, § 14, 64 Stat. 407, related to relief of retired warrant officer promoted while on active duty. See section 333 of this title.

[§ 313. Repealed. May 29, 1954, ch. 249, § 20(*o*), 68 Stat. 167]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 520; Aug. 3, 1950, ch. 536, § 15, 64 Stat. 407, provided that any warrant officer who was retired under sections 303 to 305 or 307 of this title should be retired from active service with the highest grade held by him in which his performance of duty was satisfactory, but not lower than his permanent grade, with retired pay of the grade with which retired. It implemented such sections 303 to 305 and 307 which were also repealed by act May 29, 1954. See notes under those former sections.

ADDITIONAL REPEAL

Section was also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.

[§ 313a. Repealed. Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177]

Section, added Pub. L. 85–144, § 2(a), Aug. 14, 1957, 71 Stat. 367, related to retirement of warrant officers in cases where higher grade has been held. See section 334 of this title.

[§§ 314, 315. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section 314, act Aug. 4, 1949, ch. 393, 63 Stat. 520, related to retiring or dropping for disabilities not incident to service. See section 1207 of Title 10, Armed Forces.

Section 315, act Aug. 4, 1949, ch. 393, 63 Stat. 520, related to dropping for disabilities due to vicious habits. See section 1207 of Title 10.

E. SEPARATION FOR CAUSE

§ 321. Review of records of officers

The Secretary may at any time convene a board of officers to review the record of any officer of the Regular Coast Guard to determine whether he shall be required to show cause for his retention on active duty—

(1) because his performance of duty has fallen below the standards prescribed by the Secretary, or

(2) because of moral dereliction, professional dereliction, or because his retention is not clearly consistent with the interests of national security.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187.)

§ 322. Boards of inquiry

(a) Boards of inquiry shall be convened at such places as the Secretary may prescribe to receive evidence and make findings and recommendations whether an officer who is required to show cause for retention under section 321 of this title should be retained on active duty.

(b) A fair and impartial hearing before a board of inquiry shall be given to each officer so required to show cause for retention.

(c) If a board of inquiry determines that the officer has failed to establish that he should be retained, it shall send the record of its proceedings to a board of review.

(d) If a board of inquiry determines that the officer has established that he should be retained, his case is closed. However, at any time after one year from the date of the determination in a case arising under clause (1) of section 321 of this title, and at any time after the date of the determination in a case arising under clause (2) of that section, an officer may again be required to show cause for retention.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 188; amended Pub. L. 97–295, § 2(10), Oct. 12, 1982, 96 Stat. 1302.)

AMENDMENTS

1982—Subsec. (d). Pub. L. 97–295 inserted "of this title" after "section 321".

§ 323. Boards of review

(a) Boards of review shall be convened at such times as the Secretary may prescribe, to review the records of cases of officers recommended by boards of inquiry for removal.

(b) If, after reviewing the record of the case, a board of review determines that the officer has failed to establish that he should be retained, it shall send its recommendation to the Secretary for his action.

(c) If, after reviewing the record of the case, a board of review determines that the officer has established that he should be retained on active duty, his case is closed. However, at any time after one year from the date of the determina-

tion in a case arising under clause (1) of section 321 of this title and at any time after the date of the determination in a case arising under clause (2) of that section, an officer may again be required to show cause for retention.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 188; amended Pub. L. 97–295, § 2(10), Oct. 12, 1982, 96 Stat. 1302.)

AMENDMENTS

1982—Subsec. (c). Pub. L. 97–295 inserted ''of this title'' after ''section 321''.

§ 324. Composition of boards

(a) A board convened under section 321, 322, or 323 of this title shall consist of at least three officers of the grade of commander or above, all of whom are serving in a grade senior to the grade of any officer considered by the board.

(b) No person may be a member of more than one board convened under section 321, 322, or 323 of this title to consider the same officer.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 188.)

§ 325. Rights and procedures

Each officer under consideration for removal under section 322 of this title shall be—

(1) notified in writing at least thirty days before the hearing of the case by a board of inquiry of the reasons for which the officer is being required to show cause for retention;

(2) allowed reasonable time, as determined by the board of inquiry under regulations of the Secretary, to prepare his defense;

(3) allowed to appear in person and by counsel at proceedings before a board of inquiry; and

(4) allowed full access to, and furnished copies of, records relevant to the case at all stages of the proceeding, except that a board shall withhold any records that the Secretary determines should be withheld in the interests of national security. In any case where any records are withheld under this clause, the officer whose case is under consideration shall, to the extent that the national security permits, be furnished a summary of the records so withheld.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 188.)

§ 326. Removal of officer from active duty; action by Secretary

The Secretary may remove an officer from active duty if his removal is recommended by a board of review under section 323 of this title. The Secretary's action in such as case is final and conclusive.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 189.)

§ 327. Officers considered for removal; retirement or discharge; separation benefits

(a) At any time during proceedings under section 322 or 323 of this title, and before the removal of an officer, the Secretary may grant a request—

(1) for voluntary retirement, if the officer is otherwise qualified therefor; or

(2) for discharge with separation benefits under section 286(c) of this title.

(b) Each officer removed from active duty under section 326 of this title shall—

(1) if on the date of removal the officer is eligible for voluntary retirement under any law, be retired in the grade for which he would be eligible if retired at his request; or

(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged with separation benefits under section 286(c) of this title, unless under regulations promulgated by the Secretary the condition under which the officer is discharged does not warrant an honorable discharge.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 189; amended Pub. L. 97–295, § 2(10), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 99–348, title II, § 205(b)(6), July 1, 1986, 100 Stat. 700; Pub. L. 105–383, title II, § 201(c), Nov. 13, 1998, 112 Stat. 3414; Pub. L. 107–295, title IV, § 416(a)(5), Nov. 25, 2002, 116 Stat. 2122.)

AMENDMENTS

2002—Pub. L. 107–295, § 416(a)(5)(A), substituted ''separation'' for ''severance'' in section catchline.

Subsec. (a)(2). Pub. L. 107–295, § 416(a)(5)(B), added par. (2) and struck out former par. (2) which read as follows: ''for honorable discharge with severance benefits under subsection (b) in those cases arising under clause (1) of section 321 of this title; or''.

Subsec. (a)(3). Pub. L. 107–295, § 416(a)(5)(C), struck out par. (3) which read as follows: ''for discharge with severance benefits under subsection (b) in those cases arising under clause (2) of section 321 of this title.''

Subsec. (b)(2). Pub. L. 107–295, § 416(a)(5)(D), added par. (2) and struck out former par. (2) which read as follows: ''if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month's basic pay of that grade, in those cases arising under clause (1) of section 321 of this title; or''.

Subsec. (b)(3). Pub. L. 107–295, § 416(a)(5)(E), struck out par. (3) which read as follows: ''if on that date the officer is ineligible for voluntary retirement under any law, be discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month's basic pay of that grade, in those cases arising under clause (2) of section 321 of this title, unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay.''

1998—Subsec. (b)(3). Pub. L. 105–383 inserted before period at end '', unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay''.

1986—Subsec. (b)(1). Pub. L. 99–348 struck out '', and with the pay'' after ''in the grade''.

1982—Pub. L. 97–295 inserted ''of this title'' after ''section 322 or 323'' and ''section 321'' wherever appearing.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–295 effective 4 years after Nov. 25, 2002, see section 416(c) of Pub. L. 107–295, set out as a note under section 286 of this title.

F. MISCELLANEOUS PROVISIONS

§ 331. Recall to active duty during war or national emergency

In time of war or national emergency, the Secretary may order any regular officer on the retired list to active duty.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 189.)

DELEGATION OF AUTHORITY

For delegation of authority under this section, as invoked by section 2 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, to Secretary of Homeland Security when Coast Guard is not serving as part of Navy, see section 5 of Ex. Ord. No. 13223, set out as a note under section 12302 of Title 10, Armed Forces.

§ 332. Recall to active duty with consent of officer

(a) Any regular officer on the retired list may, with that officer's consent, be assigned to such duties as that officer may be able to perform.

(b) The number of retired officers on active duty in the grade of lieutenant commander, commander, or captain shall not exceed 2 percent of the authorized number of officers on active duty in each such grade. However, this limitation does not apply to retired officers of these grades recalled to serve as members of courts, boards, panels, surveys, or special projects for periods not to exceed one year.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 189; amended Pub. L. 89–444, § 1(18), June 9, 1966, 80 Stat. 196; Pub. L. 91–278, § 1(9), June 12, 1970, 84 Stat. 305; Pub. L. 102–241, § 14, Dec. 19, 1991, 105 Stat. 2213.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–241, § 14(b), substituted ''that officer's'' for ''his'' and ''that officer'' for ''he''.

Subsec. (b). Pub. L. 102–241, § 14(a), substituted ''2'' for ''1''.

1970—Subsec. (a). Pub. L. 91–278 struck out prohibition against recall to duty in time of peace of any officer on retired list who reached age of sixty-two years.

1966—Subsec. (b). Pub. L. 89–444 provided that the percentage limitation on the number of retired officers on active duty in the grade of lieutenant commander, commander, or captain should not apply to retired officers of those grades recalled to serve as members of courts, boards, panels, surveys, or special projects for periods not to exceed one year.

§ 333. Relief of retired officer promoted while on active duty

Any regular officer on the retired list recalled to active duty who during such active duty is advanced to a higher grade under an appointment shall, upon relief from active duty, if his performance of duty under such appointment has been satisfactory, be advanced on the retired list to the highest grade held while on such active duty.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 189.)

§ 334. Grade on retirement

(a) Any commissioned officer, other than a commissioned warrant officer, who is retired under any provision of this title, shall be retired from active service with the highest grade held by him for not less than six months while on active duty in which, as determined by the Secretary, his performance of duty was satisfactory.

(b) Any warrant officer who is retired under any provision of section 580, 1263, 1293, or 1305 of title 10, shall be retired from active service with the highest commissioned grade above chief warrant officer, W–4, held by him for not less than six months on active duty in which, as determined by the Secretary, his performance of duty was satisfactory.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 190; amended Pub. L. 89–444, § 1(19), June 9, 1966, 80 Stat. 196; Pub. L. 99–348, title II, § 205(b)(7), July 1, 1986, 100 Stat. 700; Pub. L. 102–190, div. A, title XI, § 1125(b)(2), Dec. 5, 1991, 105 Stat. 1505; Pub. L. 103–337, div. A, title V, § 541(f)(3), Oct. 5, 1994, 108 Stat. 2766.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–337 substituted ''section 580,'' for ''section 564 of title 10 (as in effect on the day before the effective date of the Warrant Officer Management Act) or''.

1991—Subsec. (b). Pub. L. 102–190 substituted ''section 564 of title 10 (as in effect on the day before the effective date of the Warrant Officer Management Act) or 1263, 1293, or 1305 of title 10'' for ''section 564, 1263, 1293, or 1305 of title 10''.

1986—Subsec. (a). Pub. L. 99–348, § 205(b)(7)(A), struck out '', with retired pay of the grade with which retired'' after ''satisfactory''.

Subsec. (b). Pub. L. 99–348, § 205(b)(7), struck out '', with retired pay of the grade with which retired'' after ''satisfactory'' and struck out provision that when the rate of pay of such highest grade is less than the pay of the warrant grade with which the officer would otherwise be retired under section 1371 of title 10, the retired pay was to be based on the higher rate of pay.

1966—Pub. L. 89–444 substituted ''Grade on retirement'' for ''Retirement in cases where higher grade has been held'' in section catchline.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103–337, set out as a note under section 571 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of Title 10, Armed Forces.

§ 335. Physical fitness of officers

The Secretary shall prescribe regulations under which the physical fitness of officers to perform their duties shall be periodically determined.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 190.)

§ 336. United States Coast Guard Band; composition; director

(a) The United States Coast Guard Band shall be composed of a director and other personnel in such numbers and grades as the Secretary determines to be necessary.

(b) The Secretary may designate as the director any individual determined by the Secretary

to possess the necessary qualifications. Upon the recommendation of the Secretary, an individual so designated may be appointed by the President, by and with the advice and consent of the Senate, to a commissioned grade in the Regular Coast Guard.

(c) The initial appointment to a commissioned grade of an individual designated as director of the Coast Guard Band shall be in the grade determined by the Secretary to be most appropriate to the qualifications and experience of the appointed individual.

(d) An individual who is designated and commissioned under this section shall not be included on the active duty promotion list. He shall be promoted under section 276 of this title. However, the grade of the director may not be higher than captain.

(e) The Secretary may revoke any designation as director of the Coast Guard Band. When an individual's designation is revoked, his appointment to commissioned grade under this section terminates and he is entitled, at his option—

(1) to be discharged from the Coast Guard; or

(2) to revert to the grade and status he held at the time of his designation as director.

(Added Pub. L. 89–189, §1(1), Sept. 17, 1965, 79 Stat. 820; amended Pub. L. 102–587, title V, §5201, Nov. 4, 1992, 106 Stat. 5071; Pub. L. 107–295, title III, §311, Nov. 25, 2002, 116 Stat. 2102; Pub. L. 109–241, title II, §204(a), July 11, 2006, 120 Stat. 520.)

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–241, §204(a)(1), in first sentence, substituted ''The Secretary may designate as the director any individual determined by the Secretary to possess the necessary qualifications.'' for ''The Secretary shall designate the director from among qualified members of the Coast Guard.'', and, in second sentence, substituted ''an individual so designated'' for ''a member so designated''.

Subsec. (c). Pub. L. 109–241, §204(a)(2), substituted ''of an individual'' for ''of a member'' and ''determined by the Secretary to be most appropriate to the qualifications and experience of the appointed individual'' for ''of lieutenant (junior grade) or lieutenant''.

Subsec. (d). Pub. L. 109–241, §204(a)(3), substituted ''An individual'' for ''A member''.

Subsec. (e). Pub. L. 109–241, §204(a)(4), substituted ''When an individual's designation is revoked,'' for ''When a member's designation is revoked,'' and ''option—'' for ''option:''.

2002—Subsec. (d). Pub. L. 107–295 substituted ''captain'' for ''commander''.

1992—Subsec. (d). Pub. L. 102–587 substituted ''commander'' for ''lieutenant commander''.

CURRENT DIRECTOR

Pub. L. 109–241, title II, §204(b), July 11, 2006, 120 Stat. 520, provided that: ''The individual serving as Coast Guard band director on the date of enactment of this Act [July 11, 2006] may be immediately promoted to a commissioned grade, not to exceed captain, determined by the Secretary of the department in which the Coast Guard is operating to be most appropriate to the qualifications and experience of that individual.''

ENLISTED MEMBERS

AMENDMENTS

1984—Pub. L. 98–557, §15(a)(4)(E)(i), Oct. 30, 1984, 98 Stat. 2866, substituted ''MEMBERS'' for ''MEN'' in heading.

§ 350. Recruiting campaigns

The Secretary shall initiate and carry forward an intensified voluntary enlistment campaign to obtain the required personnel strengths.

(Added Aug. 10, 1956, ch. 1041, §7(a), 70A Stat. 620.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
350	34:187 (as made applicable to Coast Guard by 34:189). 34:189 (as applicable to 34:187). 50 App.:470 (last sentence).	Oct. 6, 1945, ch. 393, §§2 (as made applicable to Coast Guard by §13), 13 (as applicable to §2), 59 Stat. 538, 542. June 24, 1948, ch. 625, §20 (last sentence), 62 Stat. 627; Sept. 27, 1950, ch. 1059, §1(14), 64 Stat. 1074.

§ 351. Enlistments; term, grade

(a) Under regulations prescribed by the Secretary, the Commandant may enlist persons for minority or a period of at least two years but not more than six years.

(b) The Secretary shall prescribe the grades or ratings for persons enlisting in the Regular Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 520; Aug. 3, 1950, ch. 536, §16, 64 Stat. 407; Aug. 10, 1956, ch. 1041, §§8(a), 53, 70A Stat. 620, 679; Pub. L. 98–557, §15(a)(3)(F), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 108–293, title II, §203, Aug. 9, 2004, 118 Stat. 1032.)

HISTORICAL AND REVISION NOTES

1949 ACT

Based on title 14, U.S.C., 1946 ed., §§35, 35a, 206 (May 26, 1906, ch. 2556, §1, 34 Stat. 200; Jan. 28, 1915, ch. 20, §1, 38 Stat. 800; Apr. 21, 1924, ch. 130, §6, 43 Stat. 106; July 30, 1937, ch. 545, §1, 50 Stat. 547; July 11, 1941, ch. 290, §8, 55 Stat. 586; Aug. 18, 1941, ch. 364, §3, 55 Stat. 629).

Section 35 of title 14, U.S.C., 1946 ed., has been divided. The provisions of the first sentence of subsection (a) are placed in this section. The proviso of subsection (a) is covered in section 367(b) of this title. Subsection (b) is placed in section 365 of this title. Subsections (c) and (d) are placed in section 367(a) of this title, except that part (3) of subsection (c) is covered by section 366 of this title.

Section 206 of title 14, U.S.C., 1946 ed., has been divided. That part dealing with special temporary enlistments is incorporated in this section. That part dealing with temporary appointments of warrant officers is placed in section 302 of this title.

Certain additional details concerning the two types of enlistments are added; these details were previously covered in Coast Guard Regulations.

This section makes provision for the enlistment of personnel in the Coast Guard. The first sentence grants the necessary authority to the Secretary, changes existing law in regard to the term of enlistment from ''not to exceed four years'' to ''not to exceed six years'', and adds a provision for the enlistment of minors for their minority only, such provision being in accordance with existing law applicable to the Navy. The next three sentences establish and define the two types of enlistments that are now in effect in the Coast Guard, setting forth the basic difference in the two types. The last sentence continues a provision to the effect that original enlistments in the Coast Guard shall be temporary. This section is a combination of existing law and regulations in regard to enlistments, with changes as noted above. See title 14, U.S.C., 1946 ed., §35, and Coast Guard Regulations, sections 531 and 532. 81st Congress, House Report No. 557.

1956 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
351	14:351. 34:188 (as made applicable to Coast Guard by 34:189). 34:189 (as applicable to 34:188).	Aug. 4, 1949, ch. 393, § 1 (351), 63 Stat. 520; Aug. 3, 1950, ch. 536, § 16, 64 Stat. 407. Oct. 6, 1945, ch. 393, § 5 (as made applicable to Coast Guard by § 13), 13 (as applicable to § 5); 59 Stat. 539, 542.

The words ''notwithstanding any other provision of law'' and ''or reenlisted'' are omitted as surplusage. 34 U.S.C. 188 (proviso) is omitted as executed.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–293 substituted ''a period of at least two years but not more than six years.'' for ''terms of full years not exceeding six years.''

1984—Subsec. (a). Pub. L. 98–557 substituted reference to persons for reference to men.

1956—Act Aug. 10, 1956, repealed and reenacted section by general amendment thereby designating existing provisions as subsec. (a) and adding subsec. (b), relating to grades or ratings of enlistees.

1950—Act Aug. 3, 1950, struck out references to two types of enlistments that were deemed necessary prior to the enactment of the Career Compensation Act.

§ 352. Promotion

Enlisted members shall be advanced in rating by the Commandant under regulations prescribed by the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 520; Pub. L. 98–557, § 15(a)(3)(C), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Derived from title 14, U.S.C., 1946 ed., § 23 (Apr. 16, 1908, ch. 145, § 8, 35 Stat. 62).

Inasmuch as all phases of promotion of enlisted men, except the points covered by title 14, U.S.C., 1946 ed., § 23, have been left to administrative control heretofore, and this has proved most satisfactory, the entire promotion of enlisted men is delegated to administrative control by this section. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 substituted ''Enlisted members'' for ''Enlisted men''.

§ 353. Compulsory retirement at age of sixty-two

Any enlisted member who has reached the age of sixty-two shall be retired from active service.

(Aug. 4, 1949, ch. 393, 63 Stat. 520; Pub. L. 98–557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99–348, title II, § 205(b)(8), July 1, 1986, 100 Stat. 700.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 173 (Apr. 12, 1902, ch. 501, § 4, 32 Stat. 100).

Section 173 of title 14, U.S.C., 1946 ed., has been divided. That part dealing with enlisted men is placed in this section. That part dealing with commissioned officers is placed in section 230 of this title. That part dealing with warrant officers is placed in section 303 of this title.

The compulsory retirement age is changed from 64 to 62 in order to make it the same for enlisted men as for officers. 81st Congress, House Report No. 557.

AMENDMENTS

1986—Pub. L. 99–348 struck out '', with retired pay of the grade or rating with which retired'' after ''active service''.

1984—Pub. L. 98–557 substituted reference to enlisted member for reference to enlisted man.

§ 354. Voluntary retirement after thirty years' service

Any enlisted member who has completed thirty years' service may, upon his own application, in the discretion of the Commandant, be retired from active service.

(Aug. 4, 1949, ch. 393, 63 Stat. 521; Pub. L. 98–557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99–348, title II, § 205(b)(8), July 1, 1986, 100 Stat. 700.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 175 (Jan. 28, 1915, ch. 20, § 3, 38 Stat. 801).

Said section has been divided. That part dealing with retirement of enlisted men is placed in this section. That part dealing with retirement of commissioned officers is placed in section 231 of this title. That part dealing with retirement of warrant officers is placed in section 304 of this title. That part providing for retired pay is incorporated in section 423 of this title. That part providing for assignment of duties to retired personnel is incorporated in sections 241, 311, and 360 of this title.

The authority to approve was granted to the Commandant in lieu of the Secretary. 81st Congress, House Report No. 557.

AMENDMENTS

1986—Pub. L. 99–348 struck out '', with retired pay of the grade or rating with which retired'' after ''active service''.

1984—Pub. L. 98–557 substituted reference to enlisted member for reference to enlisted man.

§ 355. Voluntary retirement after twenty years' service

Any enlisted member who has completed twenty years' service may, upon his own application, in the discretion of the Commandant, be retired from active service.

(Aug. 4, 1949, ch. 393, 63 Stat. 521; Pub. L. 98–557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99–348, title II, § 205(b)(8), July 1, 1986, 100 Stat. 700.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 185a (May 24, 1939, ch. 146, § 2, 53 Stat. 755).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1986—Pub. L. 99–348 struck out '', with retired pay of the grade or rating with which retired'' after ''active service''.

1984—Pub. L. 98–557 substituted reference to enlisted member for reference to enlisted man.

[§ 356. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 521, related to retirement for disabilities incident to service. See sections 1204 and 1376 of Title 10, Armed Forces.

§ 357. Involuntary retirement of enlisted members

(a) Enlisted Personnel Boards shall be convened as the Commandant may prescribe to re-

view the records of enlisted members who have twenty or more years of active military service.

(b) Enlisted members who have twenty or more years of active military service may be considered by the Commandant for involuntary retirement and may be retired on recommendation of a Board—

(1) because the member's performance is below the standards the Commandant prescribes; or

(2) because of professional dereliction.

(c) An enlisted member under review by the Board shall be—

(1) notified in writing of the reasons the member is being considered for involuntary retirement;

(2) allowed sixty days from the date on which counsel is provided under paragraph (3) to submit any matters in rebuttal;

(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2) and to represent the member before the Board under paragraph (5);

(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2); and

(5) allowed to appear before the Board and present witnesses or other documentation related to the review.

(d) A Board convened under this section shall consist of at least three commissioned officers, at least one of whom shall be of the grade of commander or above.

(e) A Board convened under this section shall recommend to the Commandant enlisted members who—

(1) have twenty or more years of active service;

(2) have been considered for involuntary retirement; and

(3) it determines should be involuntarily retired.

(f) After the Board makes its determination, each enlisted member the Commandant considers for involuntary retirement shall be—

(1) notified by certified mail of the reasons the member is being considered for involuntary retirement;

(2) allowed sixty days from the date counsel is provided under paragraph (3) to submit any matters in rebuttal;

(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2); and

(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2).

(g) If the Commandant approves the Board's recommendation, the enlisted member shall be notified of the Commandant's decision and shall be retired from the service within ninety days of the notification.

(h) An enlisted member, who has completed twenty years of service and who the Commandant has involuntarily retired under this section, shall receive retired pay.

(i) An enlisted member voluntarily or involuntarily retired after twenty years of service who was cited for extraordinary heroism in the line of duty shall be entitled to an increase in retired pay. The retired pay shall be increased by 10 percent of—

(1) the active-duty pay and permanent additions thereto of the grade or rating with which retired when the member's retired pay is computed under section 423(a) of this title; or

(2) the member's retired pay base under section 1407 of title 10, when a member's retired pay is computed under section 423(b) of this title.

(j) When the Secretary orders a reduction in force, enlisted personnel may be involuntarily separated from the service without the Board's action.

(Aug. 4, 1949, ch. 393, 63 Stat. 521; Aug. 3, 1950, ch. 536, § 17, 64 Stat. 407; Pub. L. 88–114, § 1(1), Sept. 6, 1963, 77 Stat. 144; Pub. L. 98–557, § 15(a)(3)(A), (B), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99–348, title II, § 205(b)(9), July 1, 1986, 100 Stat. 700; Pub. L. 102–241, § 6, Dec. 19, 1991, 105 Stat. 2210.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 185, 185d (May 24, 1939, ch. 146, §§ 1, 5, 53 Stat. 755).

Subsection (b) is new and implements the preceding subsection; it seems necessary in view of certain statutes enacted as the result of World War II.

Subsection (c) is based on title 14, U.S.C., 1946 ed., § 185d (May 24, 1939, ch. 146, § 5, 53 Stat. 756). Said section has been divided. The first sentence is incorporated in section 423 of this title. The second proviso is incorporated in section 424 of this title. The remainder is placed in this subsection.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1991—Pub. L. 102–241 substituted "Involuntary retirement of enlisted members" for "Enlisted Personnel Board" in section catchline and amended text generally. Prior to amendment, text provided that the Commandant assemble annually a Coast Guard Enlisted Personnel Board to recommend enlisted members for retirement, that the recommendations be transmitted to the Commandant for approval, in which event the enlisted members concerned would be notified and given opportunity to file a written protest, which would require a subsequent annual Board determination and approval by the Commandant to effect the involuntary retirement of that member, and further provided that an enlisted member with twenty years' service retired from active duty by the Commandant pursuant to this section was to receive retired pay, and that an enlisted member voluntarily or involuntarily retired by reason of twenty years' service who had been cited for extraordinary heroism was entitled to an increase in retired pay.

1986—Subsec. (b). Pub. L. 99–348, § 205(b)(9)(A), substituted "retired pay" for "the retired pay of the grade or rating with which retired".

Subsec. (c). Pub. L. 99–348, § 205(b)(9)(B), substituted provision that retired pay be increased by an amount equal to 10 percent of the active-duty pay and permanent additions thereto of the grade or rating with which retired, in the case of a member whose retired pay is computed under 423(a) of this title, or the member's retired pay base under section 1407 of title 10, in the case of a member whose retired pay is computed under section 423(b) of this title for provision that the

retired pay be increased by an amount equal to 10 per cent of the active-duty pay and permanent additions thereto of the grade or rating with which retired.

1984—Pub. L. 98–557, §15(a)(3)(A), substituted reference to enlisted member for reference to enlisted man wherever appearing in subsecs. (a) to (c).

Subsec. (a). Pub. L. 98–557, §15(a)(3)(B), substituted reference to enlisted members for reference to enlisted men in two places.

1963—Subsec. (c). Pub. L. 88–114 struck out provisions which entitled enlisted men whose average marks in conduct were not less than 97½ percent of the maximum to a 10-percent increase of their retired pay.

1950—Subsec. (c). Act Aug. 3, 1950, substituted ''years' '' for ''years''.

SERVICE CREDIT FOR CERTAIN ENLISTED PERSONNEL

Act June 3, 1948, ch. 394, 62 Stat. 302, provided: ''That those enlisted men of the Coast Guard who, during 1940 and 1941, were discharged from the Coast Guard to accept employment as policemen and guards at the Ivigtut Cryolite Mine, Greenland, and who reenlisted in the Coast Guard within three months after the termination of their service as such policemen and guards, shall be credited with the time between discharge and reenlistment for purposes of longevity pay and retirement, but no increased retroactive pay shall accrue by reason of the enactment of this Act.''

ENLISTED MEN IN SERVICE ON SEPTEMBER 6, 1963

Section 2 of Pub. L. 88–114 provided that: ''The amendment made by subsection (1) of section 1 of this Act [amending this section] does not apply to any enlisted man in service on the effective date of this Act [Sept. 6, 1963].''

[§358. Repealed. Pub. L. 88–114, §1(2), Sept. 6, 1963, 77 Stat. 144]

Section, act Aug. 4, 1949, ch. 393, §1, 63 Stat. 522, limited number of retirements in a calendar year of enlisted men who had completed 20 years of service, to not more than the whole number nearest 1 percent of the total enlisted force on the active list, and any men so authorized to be retired annually who were not so retired, could be retired during any subsequent year providing the total retired in that year did not exceed 3 percent of the total enlisted force.

§359. Recall to active duty during war or national emergency

In times of war or national emergency, the Commandant may order any enlisted member on the retired list to active duty.

(Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, §18, 64 Stat. 407; Pub. L. 98–557, §15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §185c (May 24, 1939, ch. 146, §4, 53 Stat. 755).

This section was changed so as to make provisions for enlisted men parallel to similar provisions for commissioned and warrant officers (see §§240 and 310 of the revised title). It seems fair and equitable that similar provisions should apply to all classes of personnel insofar as practicable. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 substituted reference to enlisted member for reference to enlisted man.

1950—Act Aug. 3, 1950, struck out all references to pay.

DELEGATION OF AUTHORITY

For delegation of authority under this section, as invoked by section 2 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, to Secretary of Homeland Security when Coast Guard is not serving as part of Navy, see section 5 of Ex. Ord. No. 13223, set out as a note under section 12302 of Title 10, Armed Forces.

§360. Recall to active duty with consent of member

Any enlisted member on the retired list may, with his consent, be assigned to such duties as he may be able to perform, except that no enlisted member on the retired list who has reached the age of sixty-two years shall be recalled in time of peace.

(Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, §19, 64 Stat. 407; Pub. L. 98–557, §15(a)(3)(A), (4)(B)(i), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §185c (May 24, 1939, ch. 146, §4, 53 Stat. 755).

This section was changed so as to make provisions for enlisted men parallel to similar provisions for commissioned and warrant officers (see §§241 and 311 of the revised title). It seems fair and equitable that similar provisions should apply to all classes of personnel insofar as practicable. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 substituted ''member'' for ''man'' in section catchline, and in text substituted reference to enlisted member for reference to enlisted man in two places.

1950—Act Aug. 3, 1950, struck out all references to pay.

§361. Relief of retired enlisted member promoted while on active duty

Any enlisted member on the retired list recalled to active duty who during such active duty is advanced to a higher grade or rating under a permanent or temporary appointment or promotion shall, upon relief from active duty be advanced on the retired list to the highest grade or rating held while on active duty. In case the appointment or promotion was temporary the advancement on the retired list shall be made only to such grade or rating in which the member served satisfactorily on active duty.

(Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, §20, 64 Stat. 407; Pub. L. 98–557, §15(a)(3)(A), (G), (4)(C)(i), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Derived from title 34, U.S.C., 1946 ed., §§3501(a) and (b), 350j(b) (July 24, 1941, ch. 320, §10, 55 Stat. 605; Feb. 21, 1946, ch. 34, §8(a), 60 Stat. 28).

Said sections have application to officers only, but in accord with the general plan to make as many provisions as possible applicable both to officers and men, it seems highly desirable to provide similarly for enlisted men—a fortiori because there are cases in the Coast Guard in which enlisted men are suffering inequitably because there is no provision for advancing men on the retired list after they have been advanced in rating while serving on active duty after recall from the retired list. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 in section catchline substituted ''enlisted member'' for ''man'', and in two places in text substituted ''member'' for ''man''.

1950—Act Aug. 3, 1950, struck out all references to pay.

§ 362. Retirement in cases where higher grade or rating has been held

Any enlisted member who is retired under any provision of section 353, 354, 355, or 357 of this title shall be retired from active service with highest grade or rating held by him while on active duty in which, as determined by the Secretary, his performance of duty was satisfactory, but not lower than his permanent grade or rating.

(Aug. 4, 1949, ch. 393, 63 Stat. 522; Aug. 3, 1950, ch. 536, § 21, 64 Stat. 407; Pub. L. 97–295, § 2(9), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 98–557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99–348, title II, § 205(b)(8), July 1, 1986, 100 Stat. 700.)

HISTORICAL AND REVISION NOTES

Based on title 34, U.S.C., 1946 ed., § 3501(e) (July 24, 1941, ch. 320, § 10, 55 Stat. 605; Feb. 21, 1946, ch. 34, § 8(a), 60 Stat. 28).

The requirement that the higher grade or rating be held prior to June 30, 1946, has been eliminated; this seems to be in line with the intent of Congress as expressed in section 303 of the act of June 29, 1948, ch. 708, 62 Stat. 1081. The act of July 24, 1941, 55 Stat. 605, was enacted primarily for application to Navy personnel but it is made applicable to Coast Guard personnel by its own terms (see title 34, U.S.C., 1946 ed., § 350j(b)). 81st Congress, House Report No. 557.

AMENDMENTS

1986—Pub. L. 99–348 struck out ‘‘, with retired pay of the grade or rating with which retired’’ after ‘‘permanent grade or rating’’.

1984—Pub. L. 98–557 substituted reference to enlisted member for reference to enlisted man.

1982—Pub. L. 97–295 substituted ‘‘of this title’’ for ‘‘of this chapter’’ after ‘‘357’’.

1950—Act Aug. 3, 1950, struck out reference to section 356.

[§§ 363, 364. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section 363, act Aug. 4, 1949, ch. 393, 63 Stat. 523, related to retiring or dropping for disabilities not incident to service. See section 1207 of Title 10, Armed Forces.

Section 364, act Aug. 4, 1949, ch. 393, 63 Stat. 523, related to dropping for disabilities due to vicious habits. See section 1207 of Title 10.

§ 365. Extension of enlistments

Under regulations prescribed by the Secretary, the term of enlistment of any enlisted member may, by voluntary written agreement, be extended and re-extended for a period not exceeding six full years from the date of expiration of the then-existing term of enlistment, and subsequent to such date an enlisted member who so extends his term of enlistment shall receive the same pay and allowances in all respects as though regularly discharged and reenlisted immediately upon expiration of his term of enlistment. However, the total of all such extensions of an enlistment may not exceed six years. No such extension shall operate to deprive the enlisted member concerned, upon discharge at the termination thereof, of any right, privilege, or benefit to which he would have been entitled if his term of enlistment had not been so extended.

(Aug. 4, 1949, ch. 393, 63 Stat. 523; Pub. L. 86–474, § 1(18), May 14, 1960, 74 Stat. 146; Pub. L. 98–557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 35 (May 26, 1906, ch. 2556, § 1, 34 Stat. 200; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; July 30, 1937, ch. 545, § 1, 50 Stat. 547; July 11, 1941, ch. 290, § 8, 55 Stat. 586).

Said section has been divided. Subsection (b) is placed in this section. The provisions of the first sentence of subsection (a) are placed in section 351 of this title. The proviso of subsection (a) is covered in section 367(b) of this title. Subsections (c) and (d) are placed in section 367(a) of this title, except that part (3) of subsection (c) is covered in section 366 of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 substituted reference to enlisted member for reference to enlisted man in three places.

1960—Pub. L. 86–474 increased maximum term for extension of a reenlistment period from four to six years.

§ 366. Retention beyond term of enlistment in case of disability

Any enlisted member of the Coast Guard in the active service whose term of enlistment expires while he is suffering disease or injury incident to service and not due to misconduct, and who is in need of medical care or hospitalization, may, with his consent, be retained in such service beyond the expiration of his term of enlistment. Any such enlisted member shall be entitled to receive at Government expense medical care or hospitalization and his pay and allowances, including credit for longevity, until he shall have recovered to such extent as would enable him to meet the physical requirements for reenlistment, or until it shall have been ascertained by competent authority of the Coast Guard that the disease or injury is of a character that recovery to such an extent would be impossible. Any enlisted member whose enlistment is so extended shall be subject to forfeitures in the same manner and to the same extent as if his term of enlistment had not expired. Nothing contained in this section shall prevent any enlisted member from being held in the service without his consent under section 367 of this title.

(Aug. 4, 1949, ch. 393, 63 Stat. 523; Pub. L. 98–557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 35b (Dec. 12, 1941, ch. 566, 55 Stat. 797).

The parenthetical part, which has no application insofar as the Coast Guard is concerned, has been eliminated.

Inasmuch as the act cited above applies equally to the Army, Navy, and Marine Corps, as well as the Coast Guard, it is not scheduled for repeal but is being amended by section 14 of this act to eliminate reference to the Coast Guard.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 substituted reference to enlisted member for reference to enlisted man in four places.

§ 367. Detention beyond term of enlistment

Under regulations prescribed by the Secretary, an enlisted member may be detained in the Coast Guard beyond the term of his enlistment:

(1) until the first arrival of the vessel on which he is serving at its permanent station, or at a port in a State of the United States or in the District of Columbia; or

(2) if attached to a shore station beyond the continental limits of the United States or in Alaska, until his first arrival at a port in any State of the United States or in the District of Columbia where his reenlistment or discharge may be effected, or until he can be discharged or reenlisted at his station beyond the continental limits of the United States or in Alaska, whichever is earlier, but in no event to exceed three months; or

(3) during a period of war or national emergency as proclaimed by the President, and, in the interest of national defense, for a period not to exceed six months after the end of the war or the termination of the emergency; or

(4) for a period of not exceeding thirty days in other cases whether or not specifically covered by this section, when essential to the public interests, and the determination that such detention is essential to the public interests, made in accordance with regulations prescribed by the Secretary, shall be final and conclusive.

Any member detained in the Coast Guard as provided in this section shall be entitled to receive pay and allowances and benefits under the same conditions as though his enlistment period had not expired, and shall be subject in all respects to the laws and regulations for the government of the Coast Guard until his discharge therefrom. Enlisted members detained under the provisions of clause (1) shall be entitled to the pay and allowances provided for enlisted personnel of the Navy detained under similar circumstances.

(Aug. 4, 1949, ch. 393, 63 Stat. 523; Aug. 3, 1950, ch. 536, § 22, 64 Stat. 407; July 24, 1956, ch. 692, §§ 2(4), 3, 70 Stat. 631; Pub. L. 98–557, §§ 15(a)(3)(A), (C), 17(b)(4), Oct. 30, 1984, 98 Stat. 2865, 2868.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 35, 35a, 35c (May 26, 1906, ch. 2556, § 1, 34 Stat. 200; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; July 30, 1937, ch. 545, § 1, 50 Stat. 547; July 11, 1941, ch. 290, § 8, 55 Stat. 586; Aug. 18, 1941, ch. 364, § 3, 55 Stat. 629; Dec. 13, 1941, ch. 570, § 5, 55 Stat. 799).

Section 35 of title 14, U.S.C., 1946 ed., has been divided. The proviso of subsection (a) is covered by subsection (b) of this section. Subsections (c) and (d) are placed in subsection (a) of this section, except that part (3) of subsection (c) is covered in section 366 of this title. The first sentence of subsection (a) is placed in section 351 of this title. Subsection (b) is placed in section 365 of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 struck out subsec. ''(a)'' designation; in provisions preceding cl. (1) substituted ''enlisted member'' for ''enlisted man''; and in provisions following cl. (4) substituted ''member detained'' for ''person detained'', ''Enlisted members'' for ''Enlisted men'', and ''clause (1)'' for ''(1) of this subsection''.

1956—Subsec. (a). Act July 24, 1956, §§ 2(4), 3, repealed cl. (3) permitting detention of enlisted members beyond term of their enlistment while waiting disciplinary action or trial and disposition of their case, struck out provisions prohibiting payment of pay or allowances for any period beyond term of enlistment if trial of such members results in conviction, and redesignated cls. (4) and (5) as (3) and (4), respectively. See section 972(a) of Title 10, Armed Forces.

Subsecs. (b), (c). Act July 24, 1956, § 2(4), repealed subsecs. (b) and (c) which required enlisted members to make good time lost by unauthorized absence from duty, or by confinement under sentence or pending trial, or by reason of sickness resulting from misconduct. See section 972(a) of Title 10.

1950—Subsec. (c). Act Aug. 3, 1950, added subsec. (c).

DELEGATION OF AUTHORITY

For delegation of authority under this section, as invoked by section 2 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, to Secretary of Homeland Security when Coast Guard is not serving as part of Navy, see section 5 of Ex. Ord. No. 13223, set out as a note under section 12302 of Title 10, Armed Forces.

[§ 368. Repealed. Pub. L. 97–322, title I, § 115(b)(1), Oct. 15, 1982, 96 Stat. 1585]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 524, related to discharge in case of under-age enlistment.

§ 369. Inclusion of certain conditions in enlistment contract

The enlistment contract shall contain the substance of sections 365 to 368, inclusive, of this title.

(Aug. 4, 1949, ch. 393, 63 Stat. 524.)

HISTORICAL AND REVISION NOTES

It is believed desirable to have the provisions specified included in the enlistment contract, as they include certain privileges and obligations that any man should clearly understand before enlisting. 81st Congress, House Report No. 557.

§ 370. Discharge within three months before expiration of enlistment

Under regulations prescribed by the Secretary, any enlisted member may be discharged at any time within three months before the expiration of his term of enlistment or extended enlistment without prejudice to any right, privilege, or benefit that he would have received, except pay and allowances for the unexpired period not served, or to which he would thereafter become entitled, had he served his full term of enlistment or extended enlistment.

(Added June 8, 1955, ch. 136, § 2, 69 Stat. 88; amended Pub. L. 98–557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865.)

AMENDMENTS

1984—Pub. L. 98–557 substituted reference to enlisted member for reference to enlisted man.

§ 371. Aviation cadets; procurement; transfer

(a) The grade of aviation cadet is established as a special enlisted grade in the Coast Guard. Under such regulations as the Secretary prescribes, citizens in civil life may be enlisted as, and enlisted members of the Coast Guard with their consent may be designated as, aviation cadets.

(b) Except in time of war or national emergency declared by Congress, not less than 20 percent of the aviation cadets procured in each fiscal year shall be procured from qualified enlisted members of the Coast Guard.

(c) No persons may be enlisted or designated as an aviation cadet unless—

(1) the person agrees in writing that, upon successful completion of the course of training as an aviation cadet, the person will accept a commission as an ensign in the Coast Guard Reserve and will serve on active duty as such for at least three years, unless sooner released; and

(2) if under twenty-one years of age, the person has the consent of the person's parent or guardian to the agreement.

(d) Under such regulations as the Secretary prescribes, an aviation cadet may be transferred to another enlisted grade or rating in the Coast Guard, released from active duty, or discharged.

(Added Pub. L. 89–444, §1(20), June 9, 1966, 80 Stat. 196; amended Pub. L. 97–295, §2(11), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 98–557, §15(a)(1), Oct. 30, 1984, 98 Stat. 2864.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–557, §15(a)(1)(A), struck out ''male'' before ''citizens'' and ''enlisted members''.

Subsec. (c)(1). Pub. L. 98–557, §15(a)(1)(B), substituted ''the person'' for ''he'' in two places and struck out ''his'' after ''upon''.

Subsec. (c)(2). Pub. L. 98–557, §15(a)(1)(C), substituted ''the person'' for ''he'', ''the person's'' for ''his'', and ''the agreement'' for ''his agreement''.

1982—Subsec. (b). Pub. L. 97–295 substituted ''percent'' for ''per centum''.

§ 372. Aviation cadets; benefits

Except as provided in section 402(c) of title 37, aviation cadets or their beneficiaries are entitled to the same allowances, pensions, gratuities, and other benefits as are provided for enlisted members in pay grade E–4. While on active duty, an aviation cadet is entitled to uniforms, clothing, and equipment at the expense of the United States.

(Added Pub. L. 89–444, §1(20), June 9, 1966, 80 Stat. 197.)

§ 373. Aviation cadets; appointment as Reserve officers

(a) An aviation cadet who fulfills the eligibility requirements of section 2003 of title 10 for designation as a naval aviator may be appointed an ensign in the Coast Guard Reserve and designated a Coast Guard aviator.

(b) Aviation cadets who complete their training at approximately the same time are considered for all purposes to have begun their commissioned service on the same date, and the decision of the Secretary in this regard is conclusive.

(Added Pub. L. 89–444, §1(20), June 9, 1966, 80 Stat. 197; amended Pub. L. 94–546, §1(28), Oct. 18, 1976, 90 Stat. 2521.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–546 substituted reference to section 2003 of title 10 for reference to section 6023(b) of title 10.

§ 374. Critical skill training bonus

(a) The Secretary may provide a bonus, not to exceed $20,000, to an enlisted member who completes training in a skill designated as critical, if at least four years of obligated active service remain on the member's enlistment at the time the training is completed. A bonus under this section may be paid in a single lump sum or in periodic installments.

(b) If an enlisted member voluntarily or because of misconduct does not complete the member's term of obligated active service, the Secretary may require the member to repay the United States, on a pro rata basis, all sums paid under this section. The Secretary may charge interest on the amount repaid at a rate, to be determined quarterly, equal to 150 percent of the average of the yields on the 91-day Treasury bills auctioned during the calendar quarter preceding the date on which the amount to be repaid is determined.

(Added Pub. L. 108–293, title II, §204(a), Aug. 9, 2004, 118 Stat. 1032.)

GENERAL PROVISIONS

§ 421. Retirement

(a) Every commissioned officer, warrant officer, or enlisted member who is retired under any provisions of this title shall be retired with the permanent grade or rate held at the time of retirement, unless entitled to retire with a higher grade or rate under any provision of this title or any other law.

(b) Where an officer is entitled, under any provision of law, to retire with one grade higher than the grade in which serving at the time of retirement, the next higher grade in the case of captain shall be rear admiral (lower half), and the next higher grade in the case of commissioned warrant officer shall be lieutenant (junior grade).

(Aug. 4, 1949, ch. 393, 63 Stat. 524; Pub. L. 97–417, §2(10), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 98–557, §15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99–145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 99–348, title II, §205(b)(10), July 1, 1986, 100 Stat. 700.)

HISTORICAL AND REVISION NOTES

Subsection (a) is new in this form, but the provision contained therein is expressed or implied in numerous statutes relating to the retirement of military personnel.

A provision defining the next higher grade to that of commissioned warrant officer as lieutenant (junior grade), for purposes of retirement, was added.

The other provisions of said section are obsolete and are no longer needed.

Subsection (a) is new, but the provision contained in it is expressed or implied in numerous statutes relating to retirement of military personnel. It is believed desirable to include such a provision to prevent any misconstruction of retirement statutes, even though no change in existing law is intended on the point covered, either by other sections dealing with retirement or by this section.

Subsection (b) is a codification of the only provision of title 14, U.S.C., 1946 ed., §174, that it is desired to retain, and in addition designated the next higher grade for commissioned warrant officers as lieutenant (junior grade) because the pay of the commissioned warrant officers is the same as for the grade of lieutenant (junior grade) and advancing such officers to the grade of ensign would in some aspects not appear to be a promotion. 81st Congress, House Report No. 557.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–348 substituted ''rate'' for ''rating'' in two places.

1985—Subsec. (b). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore''.

1984—Subsec. (a). Pub. L. 98–557 substituted reference to enlisted member for reference to enlisted man.

1983—Subsec. (b). Pub. L. 97–417 substituted ''commodore'' for ''rear admiral''.

§ 422. Status of recalled personnel

All retired personnel when recalled to active duty shall serve in the grade or rate in which they were serving at the time of retirement.

(Aug. 4, 1949, ch. 393, 63 Stat. 524; Pub. L. 99–348, title II, § 205(b)(10), July 1, 1986, 100 Stat. 700.)

HISTORICAL AND REVISION NOTES

This provision is desirable because many enlisted men and low-ranking officers may now retire with higher grade which they previously held on a temporary basis. If recalled in the higher grades, they might not be capable of holding same at the time of recall. 81st Congress, House Report No. 557.

AMENDMENTS

1986—Pub. L. 99–348 substituted ''rate'' for ''rating''.

§ 423. Computation of retired pay

(a)(1) The retired pay of a member who first became a member of a uniformed service (as defined in section 101 of title 10) before September 8, 1980, is determined by multiplying—

(A) the sum of—

(i) the basic pay of the member's retired grade or rate, and

(ii) all permanent additions thereto including longevity credit to which the member was entitled at the time of retirement; by

(B) the retired pay multiplier determined under section 1409 of title 10 for the number of years of service that may be credited to the member under section 1405 of such title.

(2) In the case of an officer who served as Commandant of the Coast Guard, retired pay under paragraph (1) shall be computed at the highest rate of basic pay applicable to the officer while so serving.

(3) In the case of an enlisted member who served as the master chief petty officer of the Coast Guard, retired pay under paragraph (1) shall be computed at the highest rate of basic pay to which the member was entitled while so serving, if that basic pay is greater than the basic pay of the grade or rate to which the member is otherwise entitled at the time of retirement.

(4) In the case of an officer whose retired pay is computed on the pay of a grade for which basic pay is not based upon years of service, retired pay under paragraph (1) shall be computed on the basis of the number of years of service for which the officer would be entitled to credit in the computation of pay on the active list had the officer been serving in the grade of captain at the time of retirement.

(b) The retired pay of a member who first became a member of a uniformed service (as defined in section 101 of title 10) on or after September 8, 1980, is determined by multiplying—

(1) the retired pay base determined under section 1407 of title 10; by

(2) the retired pay multiplier determined under section 1409 of title 10 for the number of years of service that may be credited to the member under section 1405 of such title.

(c)(1) In computing for the purpose of subsection (a) or (b) the number of years of service that may be credited to a member under section 1405 of title 10—

(A) each full month of service that is in addition to the number of full years of service creditable to the member shall be counted as 1/12 of a year; and

(B) any remaining fractional part of a month shall be disregarded.

(2) Retired pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(Aug. 4, 1949, ch. 393, 63 Stat. 525; Aug. 3, 1950, ch. 536, § 23, 64 Stat. 407; Pub. L. 85–422, § 11(b), May 20, 1958, 72 Stat. 132; Pub. L. 88–132, § 5(i), Oct. 2, 1963, 77 Stat. 214; Pub. L. 92–455, § 2, Oct. 2, 1972, 86 Stat. 761; Pub. L. 96–342, title VIII, § 813(f)(2), Sept. 8, 1980, 94 Stat. 1109; Pub. L. 97–295, § 2(12), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 98–94, title IX, §§ 922(b), 923(d), Sept. 24, 1983, 97 Stat. 642, 643; Pub. L. 98–557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99–348, title II, § 205(a), July 1, 1986, 100 Stat. 699.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 162a, 167, 175c, 185d (Apr. 12, 1902, ch. 501, § 9, 32 Stat. 101; Jan. 12, 1938, ch. 3, § 3, 52 Stat. 5; May 24, 1939, ch. 146, § 5, 53 Stat. 756; Feb. 21, 1946, ch. 34, § 10, 60 Stat. 29).

Section was enlarged to include computation of retired pay in all situations. It is in accord with the provisions of Navy statutes. 81st Congress, House Report No. 557.

AMENDMENTS

1986—Pub. L. 99–348 amended section generally. Prior to amendment, section provided that retired pay of a grade or rating would be computed at the rate of 2½ percent of the sum of the basic pay of that grade or rating and all permanent additions thereto including longevity credit, multiplied by the number of years of service credited, with certain exceptions, and that retired pay of an officer or member of the Coast Guard who first became a member of a uniformed service, as defined in section 1407(a)(2) of title 10, after Sept. 7, 1980, would be computed at the rate of 2½ percent of the monthly retired pay base computed under section 1407(f) of title 10, multiplied by the number of years of service credited, but that retired pay was not to be more than 75 percent of such monthly retired pay base.

1984—Subsec. (a). Pub. L. 98–557 substituted reference to enlisted member concerned for reference to enlisted man concerned.

1983—Subsec. (a). Pub. L. 98–94, § 923(d), substituted ''In computing the number of years of service by which the rate of 2½ percent is multiplied, each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded'' for ''A fractional year of six months or more shall be considered a full year in computing the number of years of service by which the rate of 2½ percent is multiplied''.

Pub. L. 98–94, § 922(b), inserted ''Retired pay, if not a multiple of $1, shall be rounded to the next lower multiple of $1.''

1982—Subsec. (b). Pub. L. 97–295 substituted ''after September 7, 1980'' for ''on or after the date of the en-

actment of the Department of Defense Authorization Act, 1981''.

1980—Pub. L. 96–342 designated existing provisions as subsec. (a), substituted ''Except as provided in subsection (b), the'' for ''The'', and added subsec. (b).

1972—Pub. L. 92–455 provided for computation of retired pay of an enlisted member serving as the master chief petty officer of the Coast Guard at the highest basic pay applicable to him while he so served, if that basic pay is greater than the basic pay of the grade or rating to which he was otherwise entitled at the time of retirement.

1963—Pub. L. 88–132 substituted ''basic'' for ''active-duty'' wherever appearing.

1958—Pub. L. 85–422 substituted ''that may be credited to him under section 1405 of title 10'' for ''for which he was entitled to credit in the computation of his pay when last on active duty''.

1950—Act Aug. 3, 1950, struck out reference to computation of pay of retired personnel retired by reason of physical disability.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 922 of Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of Title 10, Armed Forces.

Amendment by section 923 of Pub. L. 98–94 applicable with respect to the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 of Title 10.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as a note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–422 effective June 1, 1958, see section 9 of Pub. L. 85–422.

§ 424. Limitations on retirement and retired pay

(a) The provisions of any section of this title shall not be construed so as to prevent any member from being placed on the retired list with the highest grade or rate and the highest retired pay to which the member may be entitled under the provisions of any other section of this title or under any other law.

(b) In no case may the retired pay of a member exceed 75 percent of (1) the sum of the active-duty pay and all permanent additions thereto (including longevity credit to which the member is entitled) of the grade or rate on which the member's pay is computed, or (2) the retired pay base determined under section 1407 of title 10, as appropriate.

(Aug. 4, 1949, ch. 393, 63 Stat. 525; Pub. L. 98–557, § 15(a)(3)(A), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99–348, title II, § 205(b)(11), July 1, 1986, 100 Stat. 700.)

HISTORICAL AND REVISION NOTES

The two provisions of this section are considered desirable as safeguards to eliminate any possible misconstruction of situations relating to retirement and retired pay in respect to the two points covered. 81st Congress, House Report No. 557.

AMENDMENTS

1986—Pub. L. 99–348 amended section generally. Prior to amendment, section read as follows: ''The provisions of any section of this title shall not be construed so as to prevent any officer or enlisted member from being placed on the retired list with the highest grade or rating and the highest retired pay to which such officer or enlisted member may be entitled under the provisions of any other section of this title or under the provisions of any other law. In no case shall the retired pay of an officer or enlisted member exceed 75 percent of the sum of the active-duty pay and all permanent additions thereto, including longevity credit to which the officer or enlisted member concerned is entitled, of the grade or rating on which his pay is computed.''

1984—Pub. L. 98–557 substituted reference to enlisted member for reference to enlisted man in four places.

§ 424a. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution

Under procedures prescribed by the Secretary, the Secretary may suspend the payment of the retired pay of a member or former member during periods in which the member willfully remains outside the United States to avoid criminal prosecution or civil liability. The procedures shall address the types of criminal offenses and civil proceedings for which the procedures may be used, including the offenses specified in section 8312 of title 5, and the manner by which a member, upon the return of the member to the United States, may obtain retired pay withheld during the member's absence.

(Added Pub. L. 107–295, title IV, § 444(a), Nov. 25, 2002, 116 Stat. 2132.)

§ 425. Board for Correction of Military Records deadline

(a) DEADLINE FOR COMPLETION OF ACTION.—The Secretary shall complete processing of an application for correction of military records under section 1552 of title 10 by not later than 10 months after the date the Secretary receives the completed application.

(b) REMEDIES DEEMED EXHAUSTED.—Ten months after a complete application for correction of military records is received by the Board for Correction of Military Records of the Coast Guard, administrative remedies are deemed to have been exhausted, and—

(1) if the Board has rendered a recommended decision, its recommendation shall be final agency action and not subject to further review or approval within the department in which the Coast Guard is operating; or

(2) if the Board has not rendered a recommended decision, agency action is deemed to have been unreasonably delayed or withheld and the applicant is entitled to—

(A) an order under section 706(1) of title 5, directing final action be taken within 30 days from the date the order is entered; and

(B) from amounts appropriated to the department in which the Coast Guard is operating, the costs of obtaining the order, including a reasonable attorney's fee.

(Added Pub. L. 104–324, title II, § 209(a), Oct. 19, 1996, 110 Stat. 3914.)

PRIOR PROVISIONS

A prior section 425, act Aug. 4, 1949, ch. 393, 63 Stat. 525, related to retiring boards, prior to repeal by act Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408. See section 1216 of Title 10, Armed Forces.

EFFECTIVE DATE

Section 209(d) of Pub. L. 104–324 provided that: ''This section [enacting this section and provisions set out as a note below] shall be effective on and after June 12, 1990.''

SPECIAL RIGHT OF APPLICATIONS AFTER DEADLINE FOR COMPLETION OF BOARD ACTION

Section 209(c) of Pub. L. 104–324 provided that: ''This section [enacting this section and provisions set out as a note above] applies to any applicant who had an application filed with or pending before the Board or the Secretary of the department in which the Coast Guard is operating on or after June 12, 1990, who files with the Board for Correction of Military Records of the Coast Guard an application for relief under the amendment made by subsection (a) [enacting this section]. If a recommended decision was modified or reversed on review with final agency action occurring after expiration of the 10-month deadline under that amendment, an applicant who so requests shall have the order in the final decision vacated and receive the relief granted in the recommended decision if the Coast Guard has the legal authority to grant such relief. The recommended decision shall otherwise have no effect as precedent.''

SPECIAL PROVISIONS

[§ 431. Repealed. Pub. L. 99–640, § 10(a)(6)(A), Nov. 10, 1986, 100 Stat. 3549]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 526; Aug. 3, 1950, ch. 536, § 24, 64 Stat. 407, related to personnel of former Life Saving Service.

SAVINGS PROVISION

Section 10(a)(6)(A) of Pub. L. 99–640 provided in part that the repeal of sections 431, 433, 434, and 438 of this title did not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun under such sections before Nov. 10, 1986.

§ 432. Personnel of former Lighthouse Service

(a) Any person of the former Lighthouse Service commissioned as an officer in the Coast Guard shall be an extra number in his grade and in the grades to which he may be promoted. He shall take precedence (1) with other officers commissioned in his grade from the former Lighthouse Service as the Secretary of the Treasury may determine, and (2) with other line officers in his grade in accordance with the respective dates of their commissions in such grade. He shall be eligible for promotion, if otherwise qualified, at such time as the officer in a regular number in line of promotion next above him on the seniority list becomes eligible for promotion; or if there be no such officer in his grade, he shall be eligible for promotion, if otherwise qualified, when a vacancy occurs in the next higher grade. An officer so commissioned shall be assigned to duty for which he is specially qualified, and professional examinations for promotion given to such officer shall embrace only subjects which pertain to the duty to which he is assigned.

(b) Each vacancy (1) hereafter occurring in the extra numbers of such officers; (2) existing on August 5, 1939, in positions in the Lighthouse Service formerly held by personnel eligible for such commissions; and (3) created by the retirement, resignation, death, or separation from the service for any other cause, of such personnel who do not possess the qualifications prescribed by the Secretary of the Treasury or who, being qualified, do not accept a commission thereunder, shall operate to increase by one the total authorized number of line officers of the Coast Guard.

(c) All persons of the former Lighthouse Service commissioned, appointed, or enlisted in the Coast Guard shall be subject to all laws and regulations for the government of the Coast Guard, and nothing contained in this title shall be construed to prevent the application to any of such persons of laws and regulations concerning the military discipline of commissioned and warrant officers and enlisted members of the Coast Guard.

(d) In computing length of service, for the purpose of retirement in the Coast Guard, of any person of the former Lighthouse Service commissioned, appointed, or enlisted in the Coast Guard, there shall be included all service computable for retirement under the provisions of section 763 of title 33; and after July 1, 1948, in computing longevity for the purpose of pay of such person there shall be included all service of such person in the Lighthouse Service.

(e) No person so commissioned, appointed, or enlisted in the Coast Guard shall suffer any reduction in the total of the annual compensation and allowances which he was receiving on the date of his commission, appointment, or enlistment. Upon his retirement from active duty in the Coast Guard, the retired pay of any person so commissioned, appointed, or enlisted, shall not be less than an annuity computed in accordance with the provisions of section 763 of title 33, substituting, however, for purposes of such computation, the annual compensation which he was receiving on the date of his commission, appointment, or enlistment in the Coast Guard for the average annual pay received by him for the last five years of service.

(f) Notwithstanding any other provision of law, chapter 51, subchapter III of chapter 53, and sections 5542–5546 of title 5 shall not apply to civilian keepers of lighthouses and to civilians employed on lightships and other vessels of the Coast Guard.

(g)(1) The head of the department in which the Coast Guard is operating under regulations prescribed by him, may regulate the hours of duty and the pay of civilian keepers of lighthouses and civilians employed on lightships and other vessels of the Coast Guard, but such personnel may be called upon for duty in emergency circumstances or otherwise at any time or all times. The existing system governing the pay of such employees may be continued or changed except that overtime compensation, night differential, and extra pay for duty on holidays shall not be paid to such employees. In lieu thereof additional annual compensation may be authorized, which may be prescribed either as a fixed differential or as a percentage of the basic compensation otherwise applicable to such employees. In no case shall basic compensation exceed $15,000 per annum, except that nothing contained in this subsection shall operate to decrease the basic compensation of any person employed by the Coast Guard on the date of enactment of this subsection, and in no case shall additions thereto exceed 25 percent of such basic

compensation. Provision may be made for compensatory absence from duty when conditions of employment result in confinement because of isolation or in long periods of continuous duty; and provisions may likewise be made for extra allowance for service outside of the continental limits of the United States.

(2) The additional compensation authorized by this subsection shall be included in any computation of compensation under section 6 of the Act of June 20, 1918 (33 U.S.C. 763).

(Aug. 4, 1949, ch. 393, 63 Stat. 526; Aug. 9, 1955, ch. 650, §§1, 2, 69 Stat. 577; Pub. L. 86–309, Sept. 21, 1959, 73 Stat. 585; Pub. L. 91–278, §1(10), June 12, 1970, 84 Stat. 305; Pub. L. 96–23, §5(a), June 13, 1979, 93 Stat. 68; Pub. L. 97–295, §2(11), (13), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 98–557, §15(a)(3)(B), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 99–640, §10(a)(7), Nov. 10, 1986, 100 Stat. 3549.)

HISTORICAL AND REVISION NOTES

See note under section 431 of this title.

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (g)(1), is Aug. 4, 1949.

AMENDMENTS

1986—Subsec. (g). Pub. L. 99–640 designated existing provisions as par. (1), struck out last par. relating to inclusion of additional compensation in computations of compensation for purposes of the Lighthouse Service Retirement Act, and added par. (2).

1984—Subsec. (c). Pub. L. 98–557 substituted reference to enlisted members for reference to enlisted men.

1982—Subsec. (f). Pub. L. 97–295, §2(13), substituted ''chapter 51, subchapter III of chapter 53, and sections 5542–5546 of title 5'' for ''the civil service classification laws and titles II and III of the Federal Employees Pay Act of 1945 as amended''.

Subsec. (g). Pub. L. 97–295, §2(11), substituted ''percent'' for ''per centum''.

1979—Subsec. (g). Pub. L. 96–23 substituted ''$15,000'' for ''$7,500''.

1970—Subsec. (g). Pub. L. 91–278 substituted ''$7,500'' for ''$5,100''.

1959—Subsec. (g). Pub. L. 86–309 substituted ''$5,100'' for ''$3,750''.

1955—Subsec. (f). Act Aug. 9, 1955, §1, inserted ''as amended''.

Subsec. (g). Act Aug. 9, 1955, §2, authorized head of department in which the Coast Guard is operating to regulate hours of duty and pay.

RETROACTIVE PAY

Section 5(b) of Pub. L. 96–23 provided that: ''The Coast Guard may issue retroactive pay to its remaining civilian lighthouse keepers in an amount equal to the difference between what the keeper actually received and what he would have received under the General Schedule salary rates had there not been a statutory limitation of $7,500 on his annual salary. This amount is to be calculated from the time at which his salary reached the statutory limitation to the date of enactment of this Act [June 13, 1979].''

[§§ 433, 434. Repealed. Pub. L. 99–640, § 10(a)(6)(A), Nov. 10, 1986, 100 Stat. 3549]

Section 433, acts Aug. 4, 1949, ch. 393, 63 Stat. 528; Sept. 27, 1949, ch. 586, 63 Stat. 698; Sept. 24, 1963, Pub. L. 88–130, §1(11), 77 Stat. 190; Oct. 12, 1982, Pub. L. 97–295, §2(11), (14), 96 Stat. 1302, related to personnel of former Bureau of Marine Inspection and Navigation and Bureau of Customs.

Section 434, added act Sept. 23, 1950, ch. 996, 64 Stat. 978; amended Oct. 12, 1982, Pub. L. 97–295, §2(14), 96 Stat. 1302, related to personnel appointed as constructors.

SAVINGS PROVISION

See note set out under section 431 of this title.

[§§ 435 to 437. Repealed. Pub. L. 88–130, § 4(a), Sept. 24, 1963, 77 Stat. 192]

Section 435, added act Aug. 10, 1956, ch. 1041, §9(a), 70A Stat. 620, related to temporary appointments in time of war or national emergency. See section 214 of this title.

Section 436, added act Aug. 10, 1956, ch. 1041, §9(a), 70A Stat. 621, related to temporary promotions in time of war or national emergency. See section 275 of this title.

Section 437, acts Aug. 10, 1956, ch. 1041, §9(a), 70A Stat. 622; June 28, 1962, Pub. L. 87–509, §4(b), 76 Stat. 121, related to discharge during war or emergency of officers having less than 20 years of service for unsatisfactory performance of duty.

EXTENSION OF AUTHORITY

Act July 23, 1947, ch. 301, §16, 61 Stat. 413, as amended June 3, 1948, ch. 395, 62 Stat. 302; Aug. 10, 1956, ch. 1041, §27, 70A Stat. 631; Sept. 2, 1958, Pub. L. 85–861, §6, 72 Stat. 1555; Sept. 21, 1961, Pub. L. 87–257, 75 Stat. 538, provided that notwithstanding the limitations in sections 435 and 436 of this title, the authority of such sections could be exercised until the Secretary of the Treasury determined officers holding permanent appointments on the active list equalled 95% of the number authorized, exclusive of extra numbers, or Jan. 1, 1964, whichever occurred earlier. Pub. L. 87–257, Sept. 21, 1961, 75 Stat. 538, was repealed by section 4(b) of Pub. L. 88–130.

[§ 438. Repealed. Pub. L. 99–640, § 10(a)(6)(A), Nov. 10, 1986, 100 Stat. 3549]

Section, added act Aug. 10, 1956, ch. 1041, §9(a), 70A Stat. 623; amended June 9, 1966, Pub. L. 89–444, §1(21), 80 Stat. 197; Dec. 12, 1980, Pub. L. 96–513, title V, §505(b), 94 Stat. 2918, related to laws not applicable to warrant officers of former Life Saving Service, Lighthouse Service, Bureau of Marine Inspection and Navigation, and Bureau of Customs.

SAVINGS PROVISION

See note set out under section 431 of this title.

[§§ 439, 440. Repealed. Pub. L. 88–130, § 4(a), Sept. 24, 1963, 77 Stat. 192]

Section 439, added act July 20, 1956, ch. 647, §3(a), 70 Stat. 588, related to oath of office. See section 273(b) of this title.

Section 440, added Pub. L. 85–861, §33(b)(1), Sept. 2, 1958, 72 Stat. 1567, related to temporary promotion of warrant officers. See section 277 of this title.

CHAPTER 13—PAY, ALLOWANCES, AWARDS, AND OTHER RIGHTS AND BENEFITS

Sec.
461. Remission of indebtedness of enlisted members upon discharge.
[462 to 466. Repealed.]
467. Computation of length of service.
468. Procurement of personnel.
469. Training.
470. Special instruction at universities.
471. Attendance at professional meetings.
[471a. Repealed.]
472. Education loan repayment program.
[473, 474. Repealed.]
475. Leasing and hiring of quarters; rental of inadequate housing.
476. Contingent expenses.
477. Equipment to prevent accidents.
478. Rations or commutation therefor in money.
479. Sales of ration supplies to messes.
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481. Payments at time of discharge for good of service.

Sec.
482. Clothing at time of discharge for good of service.
483. Right to wear uniform.
484. Protection of uniform.
485. Clothing for officers and enlisted personnel.
486. Clothing for destitute shipwrecked persons.
487. Procurement and sale of stores to members and civilian employees.
488. Advancement of public funds to personnel.
[489, 490. Repealed.]
491. Medal of honor.
492. Distinguished service medal.
492a. Distinguished flying cross.
493. Coast Guard medal.
494. Insignia for additional awards.
[495. Repealed.]
496. Time limit on award; report concerning deed.
497. Honorable subsequent service as condition to award.
498. Posthumous awards.
499. Delegation of powers to make awards; rules and regulations.
500. Life-saving medals.
501. Replacement of medals.
502. Award of other medals.
503. Awards and insignia for excellence in service or conduct.
504. Medal of honor: duplicate medal.
505. Medal of honor: presentation of Medal of Honor Flag.
[506. Repealed.]
507. Disposition of effects of decedents.
508. Deserters; payment of expenses incident to apprehension and delivery; penalties.
509. Persons discharged as result of court-martial; allowances to.
510. Shore patrol duty; payment of expenses.
511. Compensatory absence from duty for military personnel at isolated duty stations.
512. Monetary allowance for transportation of household effects.
513. Retroactive payment of pay and allowances delayed by administrative error or oversight.
514. Reimbursement for adoption expenses.
515. Child development services.
516. Presentation of United States flag upon retirement.
517. Travel card management.

HISTORICAL AND REVISION NOTES

Chapter 13 of this title deals with pay, allowances, awards, and other rights and benefits for personnel of the Coast Guard. Some of these sections are new as applied to the Coast Guard, some clarify and consolidate existing law, and others merely restate existing law. There is no intention to amend, enlarge or curtail the Pay Readjustment Act of 1942, as amended. 81st Congress, House Report No. 557.

AMENDMENTS

2004—Pub. L. 108–293, title II, §§210(b), 218(b), Aug. 9, 2004, 118 Stat. 1036, 1039, added items 472 and 517.

2002—Pub. L. 107–295, title III, §312(b), Nov. 25, 2002, 116 Stat. 2102, added item 511 and struck out former item 511 ''Compensatory absence of military personnel at isolated aids to navigation.''

Pub. L. 107–248, title VIII, §8143(c)(4)(B), Oct. 23, 2002, 116 Stat. 1571, added item 505.

2001—Pub. L. 107–107, div. A, title V, §553(d)(1)(B), Dec. 28, 2001, 115 Stat. 1117, added item 504.

1998—Pub. L. 105–261, div. A, title VI, §644(d)(2), Oct. 17, 1998, 112 Stat. 2049, added item 516.

1996—Pub. L. 104–324, title II, §201(b), Oct. 19, 1996, 110 Stat. 3907, added item 515.

1991—Pub. L. 102–190, div. A, title VI, §651(b)(2), Dec. 5, 1991, 105 Stat. 1387, added item 514.

1988—Pub. L. 100–448, §13(b), Sept. 28, 1988, 102 Stat. 1844, added item 513.

1984—Pub. L. 98–557, §§15(a)(4)(D)(ii), 25(a)(3), Oct. 30, 1984, 98 Stat. 2866, 2872, struck out item 462a and substituted ''members'' for ''officers, enlisted men,'' in item 487.

1982—Pub. L. 97–295, §2(15)(B), Oct. 12, 1982, 96 Stat. 1302, struck out item 473.

1980—Pub. L. 96–376, §7(b), Oct. 3, 1980, 94 Stat. 1510, added item 512.

1970—Pub. L. 91–278, §1(12), June 12, 1970, 84 Stat. 306, substituted ''Leasing and hiring of quarters; rental of inadequate housing'' for ''Hiring of quarters for personnel'' as item 475.

1968—Pub. L. 90–377, §7, July 5, 1968, 82 Stat. 288, substituted ''Persons discharged as result of court-martial; allowances to'' for ''Prisoners; allowances to; transportation'' in item 509.

1966—Pub. L. 89–718, §73(c)(2), Nov. 2, 1966, 80 Stat. 1124, struck out reference to pay and allowances and to pay of officers indebted to the United States and inserted reference to discharge in item 461.

Pub. L. 89–444, §1(26), June 9, 1966, 80 Stat. 197, struck out items 462, 464, 465, 466, 474, 504, 505, and 506.

1964—Pub. L. 88–558, §7(1), Aug. 31, 1964, 78 Stat. 768, struck out item 490 effective two years after Aug. 31, 1964. Pub. L. 88–558 was subsequently repealed by Pub. L. 97–258, §5(b), Sept. 13, 1982, 96 Stat. 1068.

1962—Pub. L. 87–651, title III, §308, Sept. 7, 1962, 76 Stat. 527, struck out item 471a.

Pub. L. 87–649, §7(c), Sept. 7, 1962, 76 Stat. 495, struck out ''active duty pay and'' before ''retired pay'' in item 462a.

Pub. L. 87–526, §1(2), (4), July 10, 1962, 76 Stat. 141, provided for remission of indebtedness of enlisted members in item 461 and struck out item 495 providing for additional pay for holders of medals.

1956—Act Aug. 10, 1956, ch. 1041, §§10(b), 11(b), 12(b), 14(b), 70A Stat. 624, added items 462a, 471a, 492a, and 510.

Act Aug. 1, 1956, ch. 837, title V, §502(8)(B), 70 Stat. 886, struck out item 489 ''Death gratuity''.

1955—Act Aug. 9, 1955, ch. 650, §3, 69 Stat. 577, added item 511.

1954—Act Sept. 3, 1954, ch. 1263, §33(a), 68 Stat. 1238, inserted ''; pay of officers indebted to United States'' in item 461.

1952—Act July 10, 1952, ch. 631, §1, 66 Stat. 539, substituted ''payment of expenses incident to apprehension and delivery'' for ''arrest by civil authority'' in item 508.

1950—Act Aug. 3, 1950, ch. 536, §25, 64 Stat. 407, struck out items 463 and 472.

Act May 5, 1950, ch. 169, §16(b), 64 Stat. 149, added items 508 and 509.

§461. Remission of indebtedness of enlisted members upon discharge

If he considers it in the best interest of the United States, the Secretary may have remitted or canceled any part of an enlisted member's indebtedness to the United States or any of its instrumentalities remaining unpaid before or at the time of, that member's honorable discharge.

(Aug. 4, 1949, ch. 393, 63 Stat. 530; Sept. 3, 1954, ch. 1263, §33(b), 68 Stat. 1238; Pub. L. 87–526, §1(1), July 10, 1962, 76 Stat. 141; Pub. L. 87–649, §14d(7), Sept. 7, 1962, as added Pub. L. 89–718, §73(a)(3), Nov. 2, 1966, 80 Stat. 1124; Pub. L. 89–718, §73(c)(1), Nov. 2, 1966, 80 Stat. 1124; Pub. L. 90–83, §2, Sept. 11, 1967, 81 Stat. 220; Pub. L. 94–546, §1(29), Oct. 18, 1976, 90 Stat. 2521.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§20a, 121 (May 18, 1920, ch. 190, §8, 41 Stat. 603; June 10, 1922, ch. 212, 42 Stat. 625; July 3, 1926, ch. 742, §10, 44 Stat. 817).

Said section 121 was omitted from the 1940 and 1946 editions of the U.S. Code, but it has been held that the assimilation provision thereof is inoperative only inso-

far as Congress has made specific legislative provision for the Coast Guard, and that benefits derived from legislation pertaining to the Navy previously conferred upon the Coast Guard, and not provided for in subsequent legislation, survive to the Coast Guard under the assimilation statute. (See 27 Comp. Dec. 234; 22 Comp. Gen. 723; decision of June 9, 1947, B–63472; decision of April 2, 1948, B–70438; and decision of September 2, 1948, B–77295.)

It seems desirable to retain this assimilation provision as to pay in order to cover any failure to provide specifically for the Coast Guard in military pay legislation.

This section assimilates the pay of military personnel of the Coast Guard to the pay of military personnel of the Navy. It seems that this is the most feasible method of insuring that the pay of military personnel of the Coast Guard will not vary from the pay of military personnel of the other armed forces. The assimilation is intended to include authorization for extra pay and allowances as provided for personnel of the Navy, for all types of special duty: for example, qualified divers on diving duty, military personnel assigned to submarine duty, military personnel assigned to aviation duty, officers assigned as aides to flag officers, and enlisted persons assigned to duty in the mess detail. Military pay acts are intended to include Coast Guard personnel specifically; this section would cover any failure to so provide for Coast Guard personnel in a pay act.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Pub. L. 94–546 substituted ''Secretary'' for ''Secretary of the Treasury''.

1967—Pub. L. 90–83 corrected section 73(a)(3) of Pub. L. 89–718 to change the designation of sections repealed under Pub. L. 87–649 from sections 471(a) and (b) of Title 14 to sections 461(a) and (b) of Title 14. See 1966 Amendment note below.

1966—Pub. L. 89–718, § 73(a)(3), amended section 14d of Pub. L. 87–649, which contained in cls. (1) to (6) list of sections of Title 14 repealed by Pub. L. 87–649, by inserting ''(7) Section 471(a) and (b).'' However, for purposes of codification, the repeal has been executed to former subsecs. (a) and (b) of this section, which provided respectively for the awarding of the same pay and allowances as prescribed for corresponding ranks, grades, or ratings for personnel of the Navy and for the withholding of pay of officers on account of indebtedness to the United States, since this appears to have been the intent of Congress.

Pub. L. 89–718, § 73(c)(1), struck out references to pay and allowances and pay of officers indebted to the United States from section catchline and struck out letter designation ''(c)'' from beginning of former subsec. (c), leaving text of former subsec. (c) as constituting entire text of section.

1962—Pub. L. 87–526, § 1(1)(A), amended section catchline to provide for remission of indebtedness of enlisted members.

Subsec. (c). Pub. L. 87–526, § 1(1)(B), added subsec. (c).

1954—Act Sept. 3, 1954 inserted ''; pay of officers indebted to United States'' in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1967 AMENDMENT

Section 9(i) of Pub. L. 90–83 provided that: ''Section 2 of this Act [correcting section 73(a)(3) of Pub. L. 89–718] is effective as of November 2, 1966, for all purposes.''

[§ 462. Repealed. Pub. L. 87–649, § 14d(1), Sept. 7, 1962, 76 Stat. 502]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 530; May 14, 1960, Pub. L. 86–474, § 1(19), 74 Stat. 146, related to pay and allowances of rear admirals. See section 202 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

[§ 462a. Repealed. Pub. L. 97–417, § 2(11), Jan. 4, 1983, 96 Stat. 2086]

Section, added act Aug. 10, 1956, ch. 1041, § 10(a), 70A Stat. 623; amended Sept. 7, 1962, Pub. L. 87–649, § 7(b), 76 Stat. 495, related to retired pay after two years of active duty for retired rear admirals.

[§ 463. Repealed. Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 530, related to continuation of additional pay.

[§§ 464, 465. Repealed. Pub. L. 87–649, § 14d(2), (3), Sept. 7, 1962, 76 Stat. 502]

Section 464, act Aug. 4, 1949, ch. 393, 63 Stat. 531, related to allotments of pay. See section 703 of Title 37, Pay and Allowances of the Uniformed Services.

Section 465, act Aug. 4, 1949, ch. 393, 63 Stat. 531, related to advances to officers ordered to and from sea or shore duty beyond the seas. See section 1006 of Title 37.

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

[§ 466. Repealed. July 12, 1955, ch. 328, § 5(3), 69 Stat. 296]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 531, provided for settlement of accounts of deceased officers and men. See section 2771 of Title 10, Armed Forces, and section 714 of Title 32, National Guard.

§ 467. Computation of length of service

In computing length of service of officers and enlisted personnel for any purpose all creditable service in the Army, Navy, Marine Corps, Air Force, Coast Guard, Revenue Cutter Service, and Life Saving Service shall be included in addition to any other creditable service authorized by any other law.

(Aug. 4, 1949, ch. 393, 63 Stat. 531.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 2 (Jan. 28, 1915, ch. 20, § 3, 38 Stat. 801).

The Air Force is added in the enumeration of services.

That part referring to the operation of a station for part of a year is omitted.

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 468. Procurement of personnel

The Coast Guard may expend operating expense funds for recruiting activities, including but not limited to advertising and entertainment, in order to—

(1) obtain recruits for the Service and cadet applicants; and

(2) gain support of recruiting objectives from those who may assist in the recruiting effort.

(Aug. 4, 1949, ch. 393, 63 Stat. 531; Pub. L. 104–324, title II, § 206(b), Oct. 19, 1996, 110 Stat. 3908.)

HISTORICAL AND REVISION NOTES

Based on the following language contained in the Coast Guard appropriation act for 1949, ''Pay and Allowances'' and preceding years: ''expenses of recruiting for the Coast Guard; advertising for and obtaining enlisted personnel and applicants for appointment as cadets;'' (June 19, 1948, ch. 558, 62 Stat. 562).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1996—Pub. L. 104–324 amended text generally. Prior to amendment, text read as follows: ''The Coast Guard may make expenditures as necessary in order to obtain recruits for the service and cadet applicants, including advertising.''

§ 469. Training

The Coast Guard may make expenditures for the training of personnel, including books, school supplies, correspondence courses, motion picture equipment, and other equipment for instructional purposes.

(Aug. 4, 1949, ch. 393, 63 Stat. 531.)

HISTORICAL AND REVISION NOTES

Based on the following language contained in the Coast Guard appropriation act for 1949, ''Pay and Allowances'' and preceding years: ''motion picture and other equipment for instructional purposes; . . . training of enlisted personnel, including textbooks, school supplies, and correspondence courses;'' (June 19, 1948, 62 Stat. 562).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 470. Special instruction at universities

Coast Guard personnel may be assigned for special instruction at private or state colleges or universities, and their expenses, including tuition, books, laboratory equipment and fees, and school supplies, may be defrayed by the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 531.)

HISTORICAL AND REVISION NOTES

Based on the following language contained in the Coast Guard appropriation act for 1949, ''Pay and Allowances'' and preceding years: ''Not to exceed $32,200 for cost of instruction of officers at non-Federal institutions, including books, laboratory equipment and fees, school supplies, and maintenance of students;'' (June 19, 1948, ch. 558, 62 Stat. 562).

The monetary limitation is removed.

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 471. Attendance at professional meetings

Coast Guard personnel may be directed to attend meetings of technical, professional, scientific, and other similar organizations and may be reimbursed for expenses thereby incurred at the rates authorized by law.

(Aug. 4, 1949, ch. 393, 63 Stat. 532.)

HISTORICAL AND REVISION NOTES

It is believed that the authority contained in this section will greatly benefit the Government in providing better trained personnel. A similar provision was enacted for personnel of the Navy in 1946 (see title 5, U.S.C., 1946 ed., § 421c). 81st Congress, House Report No. 557.

[§ 471a. Repealed. Pub. L. 87–651, title III, § 307B, Sept. 7, 1962, 76 Stat. 526]

Section, added act Aug. 10, 1956, ch. 1041, § 11(a), 70A Stat. 624, authorized transportation of motor vehicles on permanent change of station.

§ 472. Education loan repayment program

(a)(1) Subject to the provisions of this section, the Secretary may repay—

(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or

(C) any loan made under part E of such title (20 U.S.C. 1087aa et seq.).

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

(2) The Secretary may repay loans described in paragraph (1) in the case of any person for service performed on active duty as an enlisted member of the Coast Guard in a specialty specified by the Secretary.

(b) The portion or amount of a loan that may be repaid under subsection (a) is 33⅓ percent or $1,500, whichever is greater, for each year of service.

(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

(e) The Secretary shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out this section during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a).

(Added Pub. L. 108–293, title II, § 218(a), Aug. 9, 2004, 118 Stat. 1038.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a)(1), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Parts B, D, and E of title IV of the Act are classified to parts B (§ 1071 et seq.), C (§ 1087a et seq.), and D (§ 1087aa et seq.), respectively, of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

PRIOR PROVISIONS

A prior section 472, act Aug. 4, 1949, ch. 393, 63 Stat. 532, related to travel allowance to enlisted men on discharge, prior to repeal by act Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408. See section 404 of Title 37, Pay and Allowances of the Uniformed Services.

[§ 473. Repealed. Pub. L. 97–295, § 2(15)(A), Oct. 12, 1982, 96 Stat. 1302]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 532, authorized Secretary to discharge underage Coast Guard enlisted personnel with appropriate pay and allowances, such persons to be given subsistence and transportation in kind to their homes.

Opinion of the Comptroller General, No. B–91297, Dec. 23, 1949, in holding that act Sept. 24, 1945, ch. 385, 59 Stat. 536, from which this section was derived, was su-

perseded by section 303 of the Career Compensation Act of 1949, act Oct. 12, 1949, ch. 681, title III, 63 Stat. 813, stated that this section was also inconsistent with said section 303 and therefore repealed. See section 423 of Title 37, Pay and Allowances of the Uniformed Services.

[§ 474. Repealed. Sept. 1, 1954, ch. 1211, § 5, 68 Stat. 1130]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 532, related to compensation for travel tolls and fares. See section 408 of Title 37, Pay and Allowances of the Uniformed Services.

§ 475. Leasing and hiring of quarters; rental of inadequate housing

(a) The Secretary is authorized to lease housing facilities at or near Coast Guard installations, wherever located, for assignment as public quarters to military personnel and their dependents, if any, without rental charge upon a determination by the Secretary, or his designee, that there is a lack of adequate housing facilities at or near such Coast Guard installations. The Secretary is also authorized to lease housing facilities for assignment as public quarters, without rental charge, to military personnel who are on sea duty or duty at remote offshore Coast Guard stations and who do not have dependents. Such authority shall be effective in any fiscal year only to such extent or in such amounts as are provided in appropriation Acts. When any such lease involves housing facilities in a foreign country, the lease may be made on a multiyear basis for a period not to exceed five years, and, in accordance with local custom and practice, advance payment may be made for the lease. Such public housing facilities may be leased on an individual or multiple-unit basis. Expenditures for the rental of such housing facilities may not exceed the average authorized for the Department of Defense in any year except where the Secretary finds that the average is so low as to prevent rental of necessary housing facilities in some areas, in which event he is authorized to reallocate existing funds to high-cost areas so that rental expenditures in such areas exceed the average authorized for the Department of Defense.

(b) The Secretary is authorized, subject to regulations approved by the President—

(1) to designate as rental housing such housing as he may determine to be inadequate as public quarters; and

(2) to lease inadequate housing to members of the Coast Guard for occupancy by them and their dependents.

(c) Where sufficient quarters are not possessed by the United States, the Commandant may hire quarters for personnel, including personnel on sea duty at such times as they may be deprived of their quarters on board ship due to repairs or other conditions which may render them uninhabitable. Such accommodations shall not be available for occupancy by the dependents of such personnel.

(Aug. 4, 1949, ch. 393, 63 Stat. 532; Pub. L. 91–278, § 1(11), June 12, 1970, 84 Stat. 305; Pub. L. 92–343, § 4, July 10, 1972, 86 Stat. 450; Pub. L. 93–65, § 5, July 9, 1973, 87 Stat. 151; Pub. L. 94–406, § 4, Sept. 10, 1976, 90 Stat. 1236; Pub. L. 94–478, Oct. 11, 1976, 90 Stat. 2077; Pub. L. 94–546, § 1(30), Oct. 18, 1976, 90 Stat. 2521; Pub. L. 96–376, § 4, Oct. 3, 1980, 94 Stat. 1509; Pub. L. 96–470, title I, § 112(d), Oct. 19, 1980, 94 Stat. 2240; Pub. L. 97–136, § 7, Dec. 29, 1981, 95 Stat. 1706; Pub. L. 97–295, § 2(11), Oct. 12, 1982, 96 Stat. 1302; Pub. L. 97–322, title I, § 106, Oct. 15, 1982, 96 Stat. 1582; Pub. L. 100–180, div. A, title VI, § 632(b)(2), Dec. 4, 1987, 101 Stat. 1105.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 133a (June 19, 1942, ch. 419, § 2, 56 Stat. 372) and on the following language contained in the Coast Guard appropriation act for 1949, ''Pay and Allowances'' and preceding years: ''hire of quarters for Coast Guard personnel comparable to quarters assignable on a capital ship of the Navy, as authorized by the Secretary to meet emergency conditions, including officers and men on sea duty at such times as they may be deprived of their quarters on board ship due to repairs or other conditions which may render them uninhabitable: *Provided*, That under this authorization no funds may be expended for the hire of quarters for occupancy by the dependents of officers or enlisted personnel'' (June 19, 1948, ch. 558, 62 Stat. 562).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1987—Subsecs. (b) to (d). Pub. L. 100–180 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which read as follows: ''Notwithstanding the provisions of any other law, members of the Coast Guard, with dependents, may occupy on a rental basis, without loss of basic allowance for quarters, inadequate quarters under the jurisdiction of the Coast Guard notwithstanding that such quarters may have been constructed or converted for assignment as public quarters. The net difference between the basic allowance for quarters and the fair rental value of such quarters shall be paid from otherwise available appropriations; however, no rental charge for such quarters shall be made against the basic allowance for quarters of a member of the Coast Guard in excess of 75 percent of such allowance except that in no event shall the net rental value charged to the member's basic allowance for quarters be less than the cost of maintaining and operating the housing.''

1982—Subsec. (b). Pub. L. 97–295 substituted ''percent'' for ''per centum''.

Subsecs. (e), (f). Pub. L. 97–322 repealed subsec. (e) which required that the Secretary, annually and not later than April 1, file with the Speaker of the House and the President of the Senate a report of the utilization of subsecs. (a), (b), and (d) authority during the preceding calendar year, and subsec. (f) which prohibited utilization of subsecs. (a), (b), (c), or (d) authority after Apr. 1, 1973, unless all required subsec. (e) reports were filed with the Congress.

1981—Subsec. (a). Pub. L. 97–136 inserted provisions authorizing the Secretary to lease housing facilities for assignment as public quarters, without rental charge, to military personnel who are on sea duty or duty at remote offshore Coast Guard stations and who do not have dependents, and further provided that such authority shall be effective in any fiscal year only to such extent or in such amounts as are provided in appropriation acts.

1980—Subsec. (a). Pub. L. 96–376 substituted ''multi-year basis'' for ''multi-year basis,'' and authorized advance payment for any housing facilities lease in accordance with local custom and practice.

Subsec. (e). Pub. L. 96–470 struck out reference to subsec. (c).

1976—Subsec. (a). Pub. L. 94–546, § 1(30)(a), substituted ''Secretary'' for ''Secretary of the Department in which the Coast Guard is operating'' wherever appearing.

Pub. L. 94–478 inserted provision allowing leases for housing facilities in foreign countries to be made on a multi-year basis.

Subsec. (e). Pub. L. 94–546, § 1(30)(b), which was executed to subsec. (e) as the probable intent of Congress, substituted ''Secretary'' for ''Secretary of the Department in which the Coast Guard is operating'' and struck out ''commencing April 1, 1973,'' after ''not later than April 1,''.

Pub. L. 94–406, § 4(1), redesignated subsec. (f) as (e). Former subsec. (e), which provided that the authority conferred by subsecs. (b) and (c) of this section expire on June 30, 1976, was struck out.

Subsecs. (f), (g). Pub. L. 94–406, § 4(1), (2), redesignated subsec. (g) as (f) and substituted ''(e)'' for ''(f)''. Former subsec. (f) redesignated (e).

1973—Subsec. (e). Pub. L. 93–65 extended termination date of authority provided in subsecs. (b) and (c) from June 30, 1973, to June 30, 1976.

1972—Subsec. (a). Pub. L. 92–343, § 4(1), substituted ''The Secretary of the Department in which the Coast Guard is operating'' for ''The Secretary'' in first sentence.

Subsec. (e). Pub. L. 92–343, § 4(2), struck out reference to subsec. (a) and extended authority provided in subsecs. (b) and (c) to June 30, 1973.

Subsecs. (f), (g). Pub. L. 92–343, § 4(3), added subsecs. (f) and (g).

1970—Pub. L. 91–278 substituted ''Leasing and hiring of quarters; rental of inadequate housing'' for ''Hiring of quarters for personnel'' in section catchline, designated existing provisions as subsec. (d), and added subsecs. (a) to (c) and (e).

EX. ORD. NO. 11645. AUTHORITY OF SECRETARY OF HOMELAND SECURITY TO PRESCRIBE CERTAIN REGULATIONS RELATING TO HOUSING

Ex. Ord. No. 11645, Feb. 8, 1972, 37 F.R. 2923, as amended by Ex. Ord. No. 13286, § 59, Feb. 28, 2003, 68 F.R. 10629, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Homeland Security is designated and empowered to prescribe (or, under a delegation of the Secretary's authority, the Commandant of the Coast Guard is authorized to prescribe) regulations pursuant to section 475(c) of title 14 of the United States Code, relating to the designation and leasing of rental housing, without the approval, ratification, or other action by the President.

SEC. 2. Whenever the entire Coast Guard operates as a service in the Navy, the reference to the Secretary of Homeland Security in section 1 of this order shall be deemed to be a reference to the Secretary of the Navy.

§ 476. Contingent expenses

The Commandant may expend for contingencies of the Coast Guard a sum not to exceed $50,000 in any one fiscal year.

(Aug. 4, 1949, ch. 393, 63 Stat. 532; Pub. L. 108–293, title II, § 219, Aug. 9, 2004, 118 Stat. 1039.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 15k (Apr. 20, 1939, ch. 75, 53 Stat. 582).

The limitation on the amount for such contingencies is increased, and the amount is made available to the Commandant rather than solely to the Superintendent of the Academy as now prescribed by law. The authorization is to cover expenditures incident to the offices of the Commandant and the Superintendent of the Academy. The intent is that the amount authorized will be administered in a manner similar to that now employed by the Superintendent of the Academy under the authority of 14 U.S.C., § 15k. 81st Congress, House Report No. 557.

AMENDMENTS

2004—Pub. L. 108–293 substituted ''$50,000'' for ''$7,500'' and struck out at end ''The Commandant may authorize the Superintendent of the Academy to expend not to exceed $2,500 of this amount for contingencies of the Academy.''

§ 477. Equipment to prevent accidents

The Coast Guard may make such expenditures as are deemed appropriate for promotion and maintenance of the safety and occupational health of, and the prevention of accidents affecting, personnel of the Coast Guard, including the purchase of clothing, equipment, and other materials necessary thereto.

(Aug. 4, 1949, ch. 393, 63 Stat. 532.)

HISTORICAL AND REVISION NOTES

Derived from title 5, U.S.C., 1946, ed., § 118g (Aug. 2, 1946, ch. 744, § 13, 60 Stat. 809).

Because of the wide variety of tasks assigned to Coast Guard personnel it is deemed advisable to broaden this authority to the more general language as rewritten, insofar as Coast Guard personnel are concerned, thus giving complete authority to protect their health.

Said section would in no way be affected.

Inasmuch as the act cited above applies to executive departments generally, it is not scheduled for repeal by this act. 81st Congress, House Report No. 557.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

HYPOTHERMIA PROTECTIVE CLOTHING REQUIREMENT

Pub. L. 107–295, title IV, § 410, Nov. 25, 2002, 116 Stat. 2118, provided that: ''The Commandant of the Coast Guard shall ensure that all Coast Guard personnel are equipped with adequate safety equipment, including hypothermia protective clothing where appropriate, while performing search and rescue missions.''

§ 478. Rations or commutation therefor in money

(a) Enlisted members of the Coast Guard, civilian officers and civilian crews of vessels, and working parties in the field shall be allowed a ration or commutation thereof in money, in such amount and under limitations and regulations prescribed by the Secretary.

(b) Money for commuted rations shall be paid, under such regulations as the Secretary shall prescribe, on proper vouchers, or pay rolls, to persons entitled to receive it, or to the officers designated by the Commandant to administer the financial affairs of the messes in which such persons may be subsisted.

(c) Money paid for commuted rations to the designated officer may be deposited in general or limited depositories of public money or in any bank in which deposits are insured. Such funds shall be expended and accounted for under such regulations as the Secretary shall prescribe.

(d) Nothing contained in this section shall be construed as modifying or changing in any man-

ner the provisions of law pertaining to subsistence allowances for enlisted members, but no ration or commutation thereof shall be allowed a person receiving a subsistence allowance.

(Aug. 4, 1949, ch. 393, 63 Stat. 532; Pub. L. 98–557, § 15(a)(3)(B), (C), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 134, 135 (Mar. 25, 1940, ch. 71, title I, 54 Stat. 64; June 6, 1940, ch. 257, § 10, 54 Stat. 248; May 31, 1941, ch. 156, title I, § 1, 55 Stat. 221; Feb. 7, 1942, ch. 46, title I, 56 Stat. 71; June 26, 1943, ch. 147, § 1, 57 Stat. 211; June 22, 1944, ch. 269, § 1, 58 Stat. 316; May 29, 1945, ch. 130, § 1, 59 Stat. 216; July 12, 1946, ch. 569, § 1, 60 Stat. 531; Aug. 2, 1946, ch. 756, § 31, 60 Stat. 857; July 1, 1947, ch. 186, title I, § 101, 61 Stat. 226).

The provisions of said section 134 are extended to include all persons who might be entitled to receive money for commuted rations, rather than only the officer in charge of the mess.

The last proviso of said section 135 is eliminated, because experience during the past 2 years shows that it may react detrimentally on enlisted men in time of rising food costs.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Subsecs. (a), (d). Pub. L. 98–557 substituted reference to enlisted members for reference to enlisted men.

§ 479. Sales of ration supplies to messes

Ration supplies may be purchased by the cabin, wardroom, warrant officers', and other authorized messes and payment therefor made in cash to the commissary officer. The prices to be charged for such supplies shall not be less than the invoice prices, and the cash received from such sales shall be accounted for on the ration return and may be expended for the general mess.

(Aug. 4, 1949, ch. 393, 63 Stat. 533.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 132 (Aug. 1, 1914, ch. 223, § 1, 38 Stat. 620). 81st Congress, House Report No. 557.

§ 480. Flight rations

There may be furnished to officers, enlisted members, and civilian employees, while actually engaged in flight operations, an aircraft flight ration in kind, chargeable to the proper Coast Guard appropriation, which flight ration shall be supplementary to any ration or subsistence allowance now granted to such personnel. No part of an aircraft flight ration shall be furnished without cost to any person in a travel status or to any person to whom a per diem allowance is granted in lieu of actual subsistence.

(Aug. 4, 1949, ch. 393, 63 Stat. 533; Pub. L. 98–557, § 15(a)(3)(B), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Derived from the title 34, U.S.C., 1946 ed., § 909 (June 5, 1942, ch. 327, 56 Stat. 308).

Said section is applicable to Navy personnel only. Experience has shown that similar authority should be granted to the Coast Guard; it will operate to the benefit of Navy personnel stopping over at Coast Guard air stations as well as to the benefit of Coast Guard personnel stopping over at Naval air stations.

The language of said section is closely paralleled.

Said section would in no way be affected. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 substituted reference to enlisted members for reference to enlisted men.

§ 481. Payments at time of discharge for good of service

Enlisted members discharged by dishonorable discharge, bad-conduct discharge, or any other discharge for the good of the service, may, upon discharge, be paid a sum not to exceed $25. The sum paid shall be fixed by and in the discretion of the Commandant, and shall be paid only in cases where the person so discharged would otherwise be without funds to meet his immediate needs.

(Aug. 4, 1949, ch. 393, 63 Stat. 533; Pub. L. 98–557, § 15(a)(3)(C), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Derived from title 34, U.S.C., 1946 ed., § 197, and title 14, U.S.C., 1946 ed., § 3a (Mar. 4, 1925, ch. 536, § 10, 43 Stat. 1274; Oct. 26, 1942, ch. 623, 56 Stat. 987).

Said section 197 was made applicable to the Coast Guard by title 14, U.S.C., 1946 ed., § 3a whenever the Coast Guard is operating with the Navy. Experience has shown the advantage of having such a provision applicable to the Coast Guard at all times.

Said section would in no way be affected. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 substituted ''Enlisted members'' for ''Enlisted men''.

§ 482. Clothing at time of discharge for good of service

Enlisted members discharged for bad conduct, undesirability, unsuitability, or inaptitude may be furnished civilian clothing, including an overcoat when necessary, the cost of such furnished clothing not to exceed $30, per person.

(Aug. 4, 1949, ch. 393, 63 Stat. 533; Pub. L. 98–557, § 15(a)(3)(C), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 148 (Dec. 23, 1943, ch. 380, title I, 57 Stat. 628).

Inasmuch as the act cited above applies equally to the Navy and Marine Corps as well as the Coast Guard, it is not scheduled for repeal but is being amended by section 18 of this act to eliminate reference to the Coast Guard.

Changes in phraseology were made in order to adapt said section to this revision. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 substituted ''Enlisted members'' for ''Enlisted men''.

§ 483. Right to wear uniform

When authorized by and in accordance with applicable regulations:

(a) any member who has served honorably in the Coast Guard during war shall when not in active service, whether or not on the retired list, be entitled to bear the official title and upon occasions of ceremony to wear the uni-

form of the highest rank or rating held by him during his war service, and

(b) any member on the retired list shall be entitled to wear the uniform of his rank or rating.

(Aug. 4, 1949, ch. 393, 63 Stat. 533; Pub. L. 98–557, § 15(a)(3)(H), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Subsection (a) is based on title 14, U.S.C., 1946 ed., § 167b–2 (June 21, 1930, ch. 563, § 2, 46 Stat. 793).

Inasmuch as the act cited above applies equally to the Navy and Marine Corps as well as the Coast Guard, it is not scheduled for repeal but is being amended by section 12 of this act to eliminate reference to the Coast Guard.

Subsection (b) is new to the Coast Guard, although it has been the practice for retired officers to wear the uniform when they so desire. Such authority is granted to retired officers of the Navy (see title 34, U.S.C., 1946 ed., § 389).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Subsecs. (a), (b). Pub. L. 98–557 substituted reference to member for reference to commissioned officer, warrant officer, and enlisted man.

WEARING OF UNIFORM AUTHORIZED BY PRESIDENT

Section 2 of act June 21, 1930, ch. 563, 46 Stat. 793, upon which subsec. (a) of this section was based, was amended by act July 6, 1953, ch. 180, § 2, 67 Stat. 140, to substitute ''Authorized by regulations of the President'' for ''of ceremony''.

§ 484. Protection of uniform

The provisions of law relating to the protection of the uniform of the United States Army, Navy, or Marine Corps shall apply to the protection of the uniform of the Coast Guard, in the same manner, to the same extent, and under the same conditions.

(Aug. 4, 1949, ch. 393, 63 Stat. 533.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 39 (Aug. 29, 1916, ch. 418, § 1, 39 Stat. 649).

The assimilation is made in general terms, rather than by reference to the applicable section in title 10, U.S.C., 1946 ed. 81st Congress, House Report No. 557.

§ 485. Clothing for officers and enlisted personnel

(a) The Coast Guard may purchase uniforms, accouterments, and related equipment for sale to officer personnel and cadets of the Coast Guard.

(b) The Coast Guard may purchase uniform clothing for sale to enlisted personnel of the Coast Guard. The actual cost of the clothing thus sold to enlisted personnel may be withheld from their pay.

(Aug. 4, 1949, ch. 393, 63 Stat. 534; Aug. 3, 1950, ch. 536, § 33, 64 Stat. 408; Pub. L. 87–649, § 14d(4), Sept. 7, 1962, 76 Stat. 502.)

HISTORICAL AND REVISION NOTES

Subsection (a) is based on title 14, U.S.C., 1946 ed., § 30 (Jan. 12, 1919, ch. 8, 40 Stat. 1054). Said section was changed to have application to the Coast Guard at all times, rather than when the Coast Guard is operating with the Navy.

Inasmuch as the act cited above applies equally to the Navy and Marine Corps as well as the Coast Guard, it is not scheduled for repeal but is being amended by section 9 of this act to eliminate reference to the Coast Guard.

Subsection (b) is based on title 14, U.S.C., 1946, ed., § 13, and on title 33, U.S.C., 1946 ed., § 754 (July 1, 1898, ch. 346, § 1, 30 Stat. 604; July 27, 1912, ch. 255, § 2, 37 Stat. 239). Said section 13 was changed to have application to all enlisted personnel rather than to ''crews of vessels in service'' only. The provision of said section 754 which provided for the sale of clothing to civilian employees is eliminated as becoming obsolete.

Subsection (c) is new. Title 37, U.S.C., 1946 ed., § 110 authorizes the payment of a cash allowance in case clothing is not furnished to enlisted persons of the Coast Guard. Clearly this presumes the authority to issue clothing to enlisted persons; this section makes the authority statutory. 81st Congress, House Report No. 557.

AMENDMENTS

1962—Subsec. (c). Pub. L. 87–649 repealed subsec. (c) which permitted the Coast Guard to purchase uniform clothing for distribution to enlisted personnel or to pay such enlisted personnel a cash clothing allowance.

1950—Subsec. (c). Act Aug. 3, 1950, struck out ''to'' after ''or''.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

§ 486. Clothing for destitute shipwrecked persons

The Coast Guard may furnish clothing and subsistence to destitute shipwrecked persons, and the Coast Guard may reimburse, in cash or in kind, Coast Guard personnel who furnish clothing and subsistence to destitute shipwrecked persons.

(Aug. 4, 1949, ch. 393, 63 Stat. 534.)

HISTORICAL AND REVISION NOTES

Based on title 33, U.S.C., 1946 ed., § 749 (July 27, 1912, ch. 255, § 2, 37 Stat. 239; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736).

This section was enlarged to provide that the Coast Guard, as well as personnel thereof, may furnish clothing and subsistence to destitute shipwrecked persons.

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 487. Procurement and sale of stores to members and civilian employees

Such stores as the Secretary may designate may be procured and sold to members of the Coast Guard, and to the surviving spouses of such members. Such designated stores may also be procured and sold to civilian officers and employees of the United States, and to such other persons as may be specifically authorized by the Secretary, at Coast Guard stations and other units beyond the continental limits of the United States or in Alaska.

(Aug. 4, 1949, ch. 393, 63 Stat. 534; Pub. L. 98–557, § 15(a)(2), (3)(D), (4)(D)(i), Oct. 30, 1984, 98 Stat. 2865, 2866.)

HISTORICAL AND REVISION NOTES

Derived from title 34, U.S.C., 1946 ed., § 533 (Mar. 3, 1909, ch. 255, 35 Stat. 768; Apr. 14, 1937, ch. 78, 50 Stat. 63; June 10, 1939, ch. 196, 53 Stat. 814; Jan. 23, 1942, ch. 15, 56 Stat. 13; Apr. 9, 1943, ch. 39, 57 Stat. 60).

Said section granted authority for the Secretary of the Navy to sell designated stores to officers and en-

listed men. It is deemed desirable to grant similar authority to the Secretary having control of the Coast Guard.

Said section would in no way be affected. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 in section catchline substituted ''members'' for ''officers, enlisted men,'' and in text substituted ''surviving spouses'' for ''widows'' and ''members'' for ''officers and enlisted men'' in two places.

§ 488. Advancement of public funds to personnel

The Commandant, under regulations prescribed by the Secretary, may advance public funds to personnel when required to meet expenses of members detailed on emergency shore duty. Funds so advanced shall not exceed a reasonable estimate of the actual expenditures to be made and for which reimbursement is authorized by law.

(Aug. 4, 1949, ch. 393, 63 Stat. 534; Pub. L. 98–557, § 15(a)(3)(I), Oct. 30, 1984, 98 Stat. 2865.)

HISTORICAL AND REVISION NOTES

Derived from title 34, U.S.C., 1946 ed., § 885, and title 14, U.S.C., 1946 ed., § 3a (May 22, 1928, ch. 688, 45 Stat. 712; Oct. 26, 1942, ch. 623, 56 Stat. 987).

Said section 885 was made applicable to the Coast Guard by title 14, U.S.C., 1946 ed., § 3a whenever the Coast Guard is operating with the Navy. Experience has shown the advantage of having such a provision applicable to the Coast Guard at all times.

Said section would in no way be affected. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 substituted reference to members for reference to officers and men.

[§ 489. Repealed. Aug. 1, 1956, ch. 837, title V, § 502(8)(A), 70 Stat. 886]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 534, provided for payment of a death gratuity to survivors of officers and enlisted men of Regular Coast Guard. See sections 1475 to 1480 of Title 10, Armed Forces.

[§ 490. Repealed. Pub. L. 88–558, § 7(2), Aug. 31, 1964, 78 Stat. 768]

Section, acts Aug. 4, 1949, ch. 393, § 1, 63 Stat. 534; Aug. 3, 1950, ch. 536, § 26, 64 Stat. 407; Aug. 23, 1958, Pub. L. 85–738, § 1, 72 Stat. 832; Sept. 15, 1965, Pub. L. 89–185, § 2, 79 Stat. 789, provided for settlement of claims of military and civilian personnel. See section 3721 of Title 31, Money and Finance.

EFFECTIVE DATE OF REPEAL

Section 7 of Pub. L. 88–558 provided that the repeal of this section is effective two years from Aug. 31, 1964.

REPEALS

Pub. L. 89–185, Sept. 15, 1965, 79 Stat. 789, which amended this section, and Pub. L. 88–558, Aug. 31, 1964, 78 Stat. 767, which repealed this section and struck out item 490 in the analysis of sections comprising this chapter, were repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068.

§ 491. Medal of honor

The President may award, and present in the name of Congress, a medal of honor of appropriate design, with ribbons and appurtenances, to a person who, while a member of the Coast Guard, distinguishes himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force;

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(Aug. 4, 1949, ch. 393, 63 Stat. 535; Pub. L. 88–77, § 4, July 25, 1963, 77 Stat. 95.)

HISTORICAL AND REVISION NOTES

This section is new insofar as application to Coast Guard personnel in time of peace is concerned. Such awards can be made to members of the Coast Guard when the Coast Guard is operating with the Navy.

The language is parallel to that found in title 34, U.S.C., 1946 ed., § 354, providing for awards to personnel of the Navy. 81st Congress, House Report No. 557.

AMENDMENTS

1963—Pub. L. 88–77 enlarged the authority to award the medal of honor, which was limited to those cases in which persons, while in the service of the Coast Guard, distinguished themselves in action involving actual conflict with an enemy, or in the line of his profession, and without detriment to the mission of his command or to the command to which attached, to permit its award for distinguished service by members of the Coast Guard while engaged in an action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party, and substituted the requirement that it be of appropriate design, with ribbons and appurtenances, for the requirement that the design be the same as that of the Navy medal of honor.

§ 492. Distinguished service medal

The President may present, but not in the name of Congress, a distinguished service medal of appropriate design, with accompanying ribbon, together with a rosette or other device, to be worn in lieu thereof, to any person who, while serving in any capacity with the Coast Guard, distinguishes himself by exceptionally meritorious service to the Government in a duty of great responsibility.

(Aug. 4, 1949, ch. 393, 63 Stat. 535.)

HISTORICAL AND REVISION NOTES

This section is new insofar as application to Coast Guard personnel in time of peace is concerned. Such awards can be made to members of the Coast Guard when the Coast Guard is operating with the Navy.

The language is parallel to that found in title 34, U.S.C., 1946 ed., § 355, providing for awards to personnel of the Navy. 81st Congress, House Report No. 557.

EX. ORD. NO. 12824. ESTABLISHING THE HOMELAND SECURITY DISTINGUISHED SERVICE MEDAL

Ex. Ord. No. 12824, Dec. 7, 1992, 57 F.R. 58121, as amended by Ex. Ord. No. 13286, § 29, Feb. 28, 2003, 68 F.R. 10625, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America and as Commander in Chief of the Armed Forces of the United States, it is ordered as follows:

SECTION 1. There is hereby established a Homeland Security Distinguished Service Medal, with accompanying ribbons and appurtenances, for award by the Secretary of Homeland Security to a member of the Coast Guard who has provided exceptionally meritorious service in a duty of great responsibility while assigned in the Department of Homeland Security, or in other activities under the responsibility of the Secretary of Homeland Security, either national or international, as may be assigned by the Secretary.

SEC. 2. The Homeland Security Distinguished Service Medal and appurtenances thereto shall be of appropriate design approved by the Secretary of Homeland Security and shall be awarded under such regulations as the Secretary shall prescribe. These regulations shall place the Homeland Security Distinguished Service Medal in an order of precedence immediately before the Coast Guard Distinguished Service Medal.

SEC. 3. No more than one Homeland Security Distinguished Service Medal shall be awarded to any one person, but for each succeeding exceptionally meritorious period of service justifying such an award, a suitable device may be awarded to be worn with that Medal as prescribed by appropriate regulations of the Department of Homeland Security.

SEC. 4. The Homeland Security Distinguished Service Medal or device may be awarded posthumously and, when so awarded, may be presented to such representative of the deceased as may be deemed appropriate by the Secretary of Homeland Security.

§ 492a. Distinguished flying cross

The President may present, but not in the name of Congress, a distinguished flying cross of appropriate design, with accompanying ribbon, to any person who, while serving in any capacity with the Coast Guard, distinguishes himself by heroism or extraordinary achievement while participating in an aerial flight.

(Added Aug. 10, 1956, ch. 1041, § 12(a), 70A Stat. 624.)

§ 493. Coast Guard medal

The President may present, but not in the name of Congress, a medal to be known as the Coast Guard medal, of appropriate design, with accompanying ribbon, together with a rosette or other device to be worn in lieu thereof, to any person who, while serving in any capacity with the Coast Guard, distinguishes himself by heroism not involving actual conflict with an enemy.

(Aug. 4, 1949, ch. 393, 63 Stat. 535.)

HISTORICAL AND REVISION NOTES

This section establishes a new medal to be known as the Coast Guard Medal, which is intended to be a parallel award to the Navy and Marine Corps Medal of the Navy, to be awarded under the same circumstances as that medal is awarded to personnel of the Navy (see title 34, U.S.C., 1946 ed., § 356b). 81st Congress, House Report No. 557.

§ 494. Insignia for additional awards

No more than one medal of honor, distinguished service medal, distinguished flying cross, or one Coast Guard medal shall be issued to any one person; but for each succeeding deed or service sufficient to justify the awarding of a medal of honor, distinguished service medal, distinguished flying cross, or Coast Guard medal, the President may award a suitable emblem or insignia to be worn with the decoration and a corresponding rosette or other device.

(Aug. 4, 1949, ch. 393, 63 Stat. 535; Aug. 10, 1956, ch. 1041, § 13, 70A Stat. 624.)

HISTORICAL AND REVISION NOTES

This section is supplemental to the preceding sections dealing with the award of medals and regulates the award of additional medals of the same kind. It follows the established practice in all the armed forces (see title 34, U.S.C., 1946 ed., § 358). 81st Congress, House Report No. 557.

AMENDMENTS

1956—Act Aug. 10, 1956, included the distinguished flying cross.

[§ 495. Repealed. Pub. L. 87–526, § 1(3), July 10, 1962, 76 Stat. 141]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 535, related to additional pay for holders of medals.

ADDITIONAL REPEAL

Section was additionally repealed by Pub. L. 87–649, § 14d(5), Sept. 7, 1962, 76 Stat. 502, eff. Nov. 1, 1962.

§ 496. Time limit on award; report concerning deed

(a) No medal of honor, distinguished service medal, distinguished flying cross, Coast Guard medal, or bar, emblem, or insignia in lieu thereof may be awarded to a person unless—

(1) the award is made within five years after the date of the deed or service justifying the award;

(2) a statement setting forth the deed or distinguished service and recommending official recognition of it was made by his superior through official channels within three years from the date of that deed or termination of the service.

(b) If the Secretary determines that—

(1) a statement setting forth the deed or distinguished service and recommending official recognition of it was made by the person's superior through official channels within three years from the date of that deed or termination of the service and was supported by sufficient evidence within that time; and

(2) no award was made, because the statement was lost or through inadvertence the recommendation was not acted upon; a medal of honor, distinguished service medal, distinguished flying cross, Coast Guard medal, or bar, emblem, or insignia in lieu thereof, as the case may be, may be awarded to the person within two years after the date of that determination.

(Aug. 4, 1949, ch. 393, 63 Stat. 536; Pub. L. 87–526, § 1(5), July 10, 1962, 76 Stat. 141.)

HISTORICAL AND REVISION NOTES

This section establishes a time limit on the making of awards. It follows the established practice in all the armed forces (see title 10, U.S.C., 1946 ed., § 1409 and title 34, U.S.C., 1946 ed., § 360). 81st Congress, House Report No. 557.

AMENDMENTS

1962—Pub. L. 87–526 incorporated existing provisions in subsec. (a), included the distinguished flying cross and bar in lieu of any award in the enumeration of medals, and extended the time limit for recommending award of a medal after performance of the deed justify-

ing the award from one to three years and added subsec. (b).

§ 497. Honorable subsequent service as condition to award

No medal of honor, distinguished service medal, distinguished flying cross, Coast Guard medal, or emblem, or insignia in lieu thereof shall be awarded or presented to any individual, or to the representative of any individual, whose entire service subsequent to the time he distinguished himself shall not in the opinion of the Commandant have been honorable.

(Aug. 4, 1949, ch. 393, 63 Stat. 536; Aug. 10, 1956, ch. 1041, § 13, 70A Stat. 624.)

HISTORICAL AND REVISION NOTES

This section makes honorable service subsequent to the act for which award is made, a condition precedent to granting the award. The Navy has the same statutory condition (see title 34, U.S.C., 1946 ed., § 362). 81st Congress, House Report No. 557.

AMENDMENTS

1956—Act Aug. 10, 1956, included the distinguished flying cross.

§ 498. Posthumous awards

In case an individual who distinguishes himself dies before the making of any award to which he may be entitled, as authorized in this chapter, the award may be made and presented within five years from the date of the act or service justifying the award to such next of kin as may have been designated by the individual, or in the absence of such designation, or if the designated person is not alive at the time of the award, or the relationship between such person and the serviceman shall have been terminated before his death, then to such representative as the President designates. In the event of a posthumous award when the award will be made to the parents of the deceased and the parents have been divorced or separated, a duplicate award may be made to each parent.

(Aug. 4, 1949, ch. 393, 63 Stat. 536.)

HISTORICAL AND REVISION NOTES

This section sets forth the conditions under which posthumous awards can be made. It is substantially the same as conditions for the Navy, but has the added provision for duplicate awards in case the parents are divorced or separated (see title 34, U.S.C., 1946 ed., § 363). 81st Congress, House Report No. 557.

§ 499. Delegation of powers to make awards; rules and regulations

The President may delegate to the Secretary, under such conditions, regulations, and limitations as he prescribes, the powers conferred upon him to make the awards designated in this chapter, and the President may make any and all rules, regulations, and orders which he deems necessary in the conferring of such awards.

(Aug. 4, 1949, ch. 393, 63 Stat. 536.)

HISTORICAL AND REVISION NOTES

This section provides for the delegation of powers to make awards to the Secretary. The Navy statute provides for such delegation to force commanders (see title 34, U.S.C., 1946 ed., § 364). 81st Congress, House Report No. 557.

§ 500. Life-saving medals

(a) The Secretary may, under regulations prescribed by him, award a Life-saving medal of gold or silver to any person, including personnel of the Coast Guard, who rescues or endeavors to rescue any other person from drowning, shipwreck, or other peril of the water in accordance with the following provisions:

(1) if such rescue or attempted rescue is made at the risk of one's own life and evidences extreme and heroic daring, the medal shall be of gold;

(2) if such rescue or attempted rescue is not sufficiently distinguished to deserve the medal of gold, but evidences the exercise of such signal exertion as to merit recognition, the medal shall be of silver.

(b) In order for a person to be eligible for the Life-saving Medals the rescue or attempted rescue must take place in waters within the United States or subject to the jurisdiction thereof, or if the rescue or attempted rescue takes place outside such waters, one or the other of the parties must be a citizen of the United States or from a vessel or aircraft owned or operated by citizens of the United States.

(c) No person shall receive more than one gold medal and one silver medal; but any person who has received or may hereafter receive a gold or silver medal and who again performs an act which would entitle him to receive another medal of the same class may be awarded, in lieu of a second medal of the same class, a gold or silver bar, as the case may be, to be worn with the medal already bestowed, and for every such additional act, an additional bar may be awarded. Medals and bars in lieu thereof, authorized by this subsection, may be awarded posthumously.

(Aug. 4, 1949, ch. 393, 63 Stat. 536; Pub. L. 94–546, § 1(31), Oct. 18, 1976, 90 Stat. 2521.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 193, 194, 195, 196 (June 20, 1874, ch. 344, § 7, 18 Stat. 127; June 18, 1878, ch. 265, § 12, 20 Stat. 165; May 4, 1882, ch. 117, § 9, 22 Stat. 57; Jan. 21, 1897, ch. 83, 29 Stat. 494).

Said sections have been rewritten so as to make the awarding of Life-saving medals turn on whether or not the United States has an interest in the heroic act, rather than on technical jurisdictional grounds. Under existing law the award of a medal could be made in any case in which the rescuer or the rescued was a citizen of the United States, or was from a vessel owned or operated by the United States regardless of where the rescue took place; and if the rescue took place within waters of the United States the award could be made to an alien.

The existing law relating to the Treasury Department Life-Saving Medal contained in title 14, U.S.C., 1946, ed., §§ 192–196, has long needed revision. The existing law is composed of a series of statutes enacted separately between 1874 and 1897, and the result has not been entirely unsatisfactory. The original statute, enacted in 1874 (title 14, U.S.C., 1946 ed., § 193), provided for Life-saving medals of the first and second class to be bestowed "upon any persons who shall hereafter endanger their own lives in saving, or endeavoring to save lives from the perils of the sea, within the United States, or upon any American vessel". The medal of the first class was confined to cases of "extreme and heroic daring" and the medal of the second class was to be awarded "in cases not sufficiently distinguished to de-

serve the medal of the first class'' Then in 1878 another act was passed (title 14, U.S.C., 1946 ed., § 194) authorizing the bestowal of the medal of the second class ''upon persons making such signal exertions in rescuing and succoring the shipwrecked, and saving persons from drowning'' as, in the opinion of the Secretary of the Treasury, merited recognition. These two sections were construed by the Attorney General to be limited to the rescue of persons who were subjected to the perils of the sea in any waters of the United States in the vicinity of any lifeboat station, life-saving station, or house of refuge. And the person upon whom the medal could be bestowed was limited to members of life-saving crews. (1895) Op. Att. Gen. 124. Thereupon, in 1897, an act was passed which provided that the two earlier acts should ''be construed so as to empower the Secretary of the Treasury to bestow such medals upon persons making signal exertions in rescuing and succoring the shipwrecked and saving persons from drowning in waters over which the United States has jurisdiction, whether the said persons making such exertions were or were not members of the Life-Saving Service or whether or not such exertions were made in the vicinity of a life-saving station''. (Title 14, U.S.C., 1946 ed., § 196.) This act was designed to give a more liberal application to the two earlier acts, and all three were to be read as one. (1900) 23 Op. Atty. Gen. 78. However, difficult questions of interpretation have arisen because of the different jurisdictional language in the three acts. For example, title 14, U.S.C., 1946 ed., § 193, refers to rescues ''within the United States'', while title 14, U.S.C., 1946 ed., § 196, refers to rescues ''in the waters over which the United States has jurisdiction''. The need for clarification is obvious. Subsection (a) authorizes the awarding of the medal to any person, including Coast Guard personnel, who rescues or endeavors to rescue any person from drowning, shipwreck, or peril of the water. If the rescue or attempted rescue is at the risk of one's own life and evidences extreme and heroic daring, the medal shall be of gold, and if the rescue or attempted rescue is not sufficiently distinguished to deserve the gold medal, but evidences the exertion of such signal exertion as to merit recognition, the medal shall be of silver. Thus, the acts for which the medals are to be awarded are defined simply and without any geographical or jurisdictional limitations. The difficulty with the existing law is the attempt to define the required deed together with those limitations. Subsection (a) does not change existing law insofar as the type of act necessary for the medals is concerned; it merely simplifies and clarifies existing law.

Subsection (b) contains the jurisdictional limitations on the awarding of the medal and broadens, to a considerable extent, the provisions of existing law. It is the intent of this subsection to authorize the awarding of a medal in all cases where the United States has a legitimate interest in recognizing meritorious acts, such as where a United States citizen performs the act, or where a United States citizen is rescued, or where United States waters or United States vessels or aircraft are involved. Accordingly, rescues by United States citizens anywhere in the world will be recognized. Any person, including persons not citizens of the United States, may receive medals if the rescue or attempted rescue takes place in waters within the United States or subject to its jurisdiction or, in cases of rescues outside such waters, if either the rescuer or the person rescued is from a United States vessel or aircraft, or the person rescued is a United States citizen. Thus, every case in which the United States government has an interest is provided for. A United States citizen who performs a heroic act sufficient to justify a medal in state waters, or in foreign waters, could not receive one under existing law, but could receive such award under this proposed revision. The awarding of medals should not turn on technical jurisdictional grounds; it should turn rather on the interest of the United States to recognize noble and heroic acts.

Subsection (c) dealing with the awarding of bars for additional acts, clarifies, but does not change title 14, U.S.C., 1946 ed., § 195, except that authority is granted to award medals posthumously. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–546 substituted ''Secretary'' for ''Secretary of the Treasury''.

§ 501. Replacement of medals

In those cases where a medal, or a bar, emblem, or insignia in lieu thereof, awarded pursuant to this chapter has been stolen, lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was awarded, such medal, or bar, emblem, or insignia in lieu thereof, shall be replaced without charge, or, in the discretion of the Secretary, upon condition that the Government is reimbursed for the cost thereof.

(Aug. 4, 1949, ch. 393, 63 Stat. 537; Pub. L. 107–107, div. A, title V, § 553(d)(2), Dec. 28, 2001, 115 Stat. 1117.)

HISTORICAL AND REVISION NOTES

This section provides for the replacement of medals. It follows the established practice of the other armed forces, but makes an additional provision that the Secretary in his discretion may charge for the replacement medals in some circumstances. (See title 10, U.S.C., 1946 ed., § 1416 and title 34, U.S.C., 1946 ed., § 359.) 81st Congress, House Report No. 557.

AMENDMENTS

2001—Pub. L. 107–107 inserted ''stolen,'' before ''lost,''.

§ 502. Award of other medals

Coast Guard personnel, notwithstanding the provisions of this chapter, may be awarded medals, bars, emblems, or insignia to which such personnel may be entitled under other provisions of law.

(Aug. 4, 1949, ch. 393, 63 Stat. 537.)

HISTORICAL AND REVISION NOTES

This section insures that the preceding sections are not intended to prevent Coast Guard military personnel from receiving other medals, the legion of merit, for example. 81st Congress, House Report No. 557.

MERITORIOUS SERVICE MEDAL

Medal established as an award for outstanding meritorious achievement or service to the United States, see Ex. Ord. No. 11448, Jan. 16, 1969, 34 F.R. 915, as amended, set out as a note preceding section 1121 of Title 10, Armed Forces.

§ 503. Awards and insignia for excellence in service or conduct

The Coast Guard may award trophies, badges, and cash prizes to Coast Guard personnel or groups thereof, including personnel of the reserve components thereof whether or not on active duty, for excellence in accomplishments related to Coast Guard service, to incur such expenses as may be necessary to enter such personnel in competitions, and to provide badges or buttons in recognition of special service, good conduct, and discharge under conditions other than dishonorable.

(Aug. 4, 1949, ch. 393, 63 Stat. 537.)

HISTORICAL AND REVISION NOTES

Based on the following language contained in the Coast Guard appropriation act for 1949, ''Pay and Al-

lowances'' and preceding years: ''not exceeding $10,000 for cash prizes for men for excellence in boatmanship, gunnery, target practice, and engineering competitions'' (June 19, 1948, ch. 558, 62 Stat. 561).

This section expands the language contained in the appropriation act to include the awarding of trophies and badges, and to include in the accomplishments for which such awards may be made, excellence in any field related to Coast Guard duty. 81st Congress, House Report No. 557.

§ 504. Medal of honor: duplicate medal

A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary may determine, as a duplicate or for display purposes only.

(Added Pub. L. 107–107, div. A, title V, § 553(d)(1)(A), Dec. 28, 2001, 115 Stat. 1116.)

PRIOR PROVISIONS

A prior section 504, act Aug. 4, 1949, ch. 393, 63 Stat. 537, related to disposition of the remains of deceased Coast Guard personnel, prior to repeal by act July 15, 1954, ch. 507, § 14(c)(5), 68 Stat. 481. For provisions relating to recovery, care, and disposition of the remains of deceased personnel of the uniformed services and deceased civilian personnel, see section 1481 of Title 10, Armed Forces.

§ 505. Medal of honor: presentation of Medal of Honor Flag

The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 491 of this title. Presentation of the flag shall be made at the same time as the presentation of the medal under section 491 or 498 of this title. In the case of a posthumous presentation of the medal, the flag shall be presented to the person to whom the medal is presented.

(Added Pub. L. 107–248, title VIII, § 8143(c)(4)(A), Oct. 23, 2002, 116 Stat. 1571; amended Pub. L. 107–314, div. A, title X, § 1062(b)(1), Dec. 2, 2002, 116 Stat. 2650; Pub. L. 109–364, div. A, title V, § 555(a), Oct. 17, 2006, 120 Stat. 2217.)

PRIOR PROVISIONS

A prior section 505, act Aug. 4, 1949, ch. 393, 63 Stat. 537, related to escorts to the place of burial for the bodies of deceased Coast Guard personnel, prior to repeal by act July 15, 1954, ch. 507, § 14(c)(5), 68 Stat. 481. For provisions relating to recovery, care, and disposition of the remains of deceased personnel of the uniformed services and deceased civilian personnel, see section 1481 of Title 10, Armed Forces.

AMENDMENTS

2006—Pub. L. 109–364 struck out ''after October 23, 2002'' after ''section 491 of this title'' and inserted at end ''In the case of a posthumous presentation of the medal, the flag shall be presented to the person to whom the medal is presented.''

2002—Pub. L. 107–314 substituted ''October 23, 2002'' for ''the date of the enactment of this section''.

PRESENTATION OF FLAG FOR PRIOR RECIPIENTS OF MEDAL OF HONOR

President to provide for the presentation of the Medal of Honor Flag to living recipients of the Medal of Honor as expeditiously as possible after Oct. 17, 2006, and for posthumous presentation to survivors of deceased recipients of the Medal of Honor upon written application therefor, see section 555(b) of Pub. L. 109–364, set out as a note under section 3755 of Title 10, Armed Forces.

[§ 506. Repealed. July 15, 1954, ch. 507, § 14(c)(5), 68 Stat. 481]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 537, related to the issue of the national flag to be used for draping the coffin of any deceased member of the Coast Guard. For provisions relating to recovery, care, and disposition of the remains of deceased personnel of the uniformed services and deceased civilian personnel, see section 1481 of Title 10, Armed Forces.

§ 507. Disposition of effects of decedents

All moneys, articles of value, papers, keepsakes, and other similar effects belonging to the deceased persons in the Coast Guard, not claimed by their legal heirs or next of kin, shall be deposited in safe custody, and if any such moneys, articles of value, papers, keepsakes, or other similar effects so deposited have been, or shall hereafter be, unclaimed for a period of two years from the date of the death of such person, such articles and effects shall be sold and the proceeds thereof, together with the moneys above mentioned, shall be deposited in the Treasury as miscellaneous receipts. The Secretary shall make diligent inquiry in every instance after the death of such person to ascertain the whereabouts of his heirs or next of kin, and prescribe necessary regulations to carry out the foregoing provisions. Claims may be presented hereunder at any time within five years after such moneys or proceeds have been so deposited in the Treasury, and, when supported by competent proof in any case after such deposit in the Treasury, shall be certified to Congress for consideration.

(Aug. 4, 1949, ch. 393, 63 Stat. 538.)

HISTORICAL AND REVISION NOTES

Derived from title 34, U.S.C., 1946 ed., § 942 (Mar. 29, 1918, ch. 31, 40 Stat. 499).

Said section provided for the disposition of effects of deceased naval personnel. It is believed similar provisions should be made for Coast Guard personnel.

Said section would in no way be affected. 81st Congress, House Report No. 557.

§ 508. Deserters; payment of expenses incident to apprehension and delivery; penalties

(a) The Coast Guard may, pursuant to regulations prescribed by the Secretary, make such expenditures as are deemed necessary for the apprehension and delivery of deserters, stragglers, and prisoners.

(b) No person who is convicted by court martial for desertion from the Coast Guard in time of war, and as the result of such conviction is dismissed or dishonorably discharged from the Coast Guard shall afterwards be enlisted, appointed, or commissioned in any military or naval service under the United States, unless the disability resulting from desertion, as established by this section is removed by a board of commissioned officers of the Coast Guard convened for consideration of the case, and the action of the Board is approved by the Secretary; or unless he is restored to duty in time of war.

(Added May 5, 1950, ch. 169, § 16(a), 64 Stat. 148; amended July 10, 1952, ch. 631, § 2, 66 Stat. 540.)

AMENDMENTS

1952—Subsec. (a). Act July 10, 1952, authorized reimbursement of necessary expenses to persons other than civil officers, and added stragglers and prisoners to class of offenders.

EFFECTIVE DATE

Section effective May 31, 1951, see section 5 of act May 5, 1950.

§ 509. Persons discharged as result of court-martial; allowances to

The Secretary may furnish persons discharged pursuant to the sentence of a Coast Guard court-martial suitable civilian clothing and a monetary allowance not to exceed $25 if the person discharged would not otherwise have suitable clothing or funds to meet immediate needs.

(Added May 5, 1950, ch. 169, § 16(a), 64 Stat. 148; amended Pub. L. 90–377, § 8, July 5, 1968, 82 Stat. 288.)

AMENDMENTS

1968—Pub. L. 90–377 substituted ''Persons discharged as result of court-martial; allowances to'' for ''Prisoners; allowances to; transportation'' in section catchline, and struck out provision that persons confined in prisons in pursuance of the sentence of a Coast Guard court shall during such confinement, be allowed a reasonable sum, not to exceed $3 per month, for necessary prison expenses and the provision that the Commandant of the Coast Guard may transport to their homes or places of enlistment, as he may designate, all discharged prisoners, the expense of such transportation to be paid out of any money to the credit of prisoners when discharged.

EFFECTIVE DATE

Section effective May 31, 1951, see section 5 of act May 5, 1950.

§ 510. Shore patrol duty; payment of expenses

An officer or cadet of the Coast Guard who is assigned shore patrol duty away from his vessel or other duty station may be paid his actual expenses.

(Added Aug. 10, 1956, ch. 1041, § 14(a), 70A Stat. 624.)

§ 511. Compensatory absence from duty for military personnel at isolated duty stations

The Secretary may grant compensatory absence from duty to military personnel of the Coast Guard serving at isolated duty stations of the Coast Guard when conditions of duty result in confinement because of isolation or in long periods of continuous duty.

(Added Aug. 9, 1955, ch. 650, § 4, 69 Stat. 577; amended Pub. L. 94–546, § 1(32), Oct. 18, 1976, 90 Stat. 2521; Pub. L. 107–295, title III, § 312(a), Nov. 25, 2002, 116 Stat. 2102.)

AMENDMENTS

2002—Pub. L. 107–295 substituted ''Compensatory absence from duty for military personnel at isolated duty stations'' for ''Compensatory absence of military personnel at isolated aids to navigation'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''The Secretary, under regulations prescribed by him, may grant compensatory absence from duty to military personnel of the Coast Guard serving in lightships and at lighthouses and other isolated aids to navigation of the Coast Guard when conditions of duty result in confinement because of isolations or in long periods of continuous duty.''

1976—Pub. L. 94–546 substituted ''Secretary'' for ''head of the department in which the Coast Guard is operating''.

§ 512. Monetary allowance for transportation of household effects

The transportation and reimbursement authorized by subsection (b) of section 406 of title 37 shall be available hereafter to pay a monetary allowance in place of such transportation to a member who, under regulations prescribed by the Secretary, participates in a program designated by the Secretary in which his baggage and household effects are moved by a privately owned or rental vehicle. This allowance shall not be limited to reimbursement for actual expenses and may be paid in advance of the transportation of the baggage and household effects. The allowance shall, however, be in an amount that will result in savings to the Government when the total cost of the movement of baggage and household effects is compared with the cost that otherwise would have been incurred under subsection (b) of section 406 of title 37.

(Added Pub. L. 96–376, § 7(a), Oct. 3, 1980, 94 Stat. 1510; amended Pub. L. 97–295, § 2(16), Oct. 12, 1982, 96 Stat. 1302.)

AMENDMENTS

1982—Pub. L. 97–295 struck out '', United States Code,'' after ''title 37'' first time appearing, and '', United States Code'' after ''title 37'' second time appearing.

§ 513. Retroactive payment of pay and allowances delayed by administrative error or oversight

Under regulations prescribed by the Secretary, the Coast Guard may authorize retroactive payment of pay and allowances, including selective reenlistment bonuses, to enlisted members if entitlement to the pay and allowances was delayed in vesting solely because of an administrative error or oversight.

(Added Pub. L. 100–448, § 13(a), Sept. 28, 1988, 102 Stat. 1844.)

§ 514. Reimbursement for adoption expenses

(a) AUTHORIZATION TO REIMBURSE.—The Secretary shall carry out a program under which a member of the Coast Guard may be reimbursed, as provided in this section, for qualifying adoption expenses incurred by the member in the adoption of a child under 18 years of age.

(b) ADOPTIONS COVERED.—An adoption for which expenses may be reimbursed under this section includes an adoption by a single person, an infant adoption, an intercountry adoption, and an adoption of a child with special needs (as defined in section 473(c) of the Social Security Act (42 U.S.C. 673(c))).

(c) BENEFITS PAID AFTER ADOPTION IS FINAL.—Benefits paid under this section in the case of an adoption may be paid only after the adoption is final.

(d) TREATMENT OF OTHER BENEFITS.—A benefit may not be paid under this section for any ex-

pense paid to or for a member of the Coast Guard under any other adoption benefits program administered by the Federal Government or under any such program administered by a State or local government.

(e) LIMITATIONS.—(1) Not more than $2,000 may be paid under this section to a member of the Coast Guard, or to two such members who are spouses of each other, for expenses incurred in the adoption of a child.

(2) Not more than $5,000 may be paid under this section to a member of the Coast Guard, or to two such members who are spouses of each other, for adoptions by such member (or members) in any calendar year.

(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

(g) DEFINITIONS.—In this section:

(1) The term ''qualifying adoption expenses'' means reasonable and necessary expenses that are directly related to the legal adoption of a child under 18 years of age, but only if such adoption is arranged by a qualified adoption agency. Such term does not include any expense incurred—

(A) by an adopting parent for travel; or

(B) in connection with an adoption arranged in violation of Federal, State, or local law.

(2) The term ''reasonable and necessary expenses'' includes—

(A) public and private agency fees, including adoption fees charged by an agency in a foreign country;

(B) placement fees, including fees charged adoptive parents for counseling;

(C) legal fees (including court costs) in connection with services that are unavailable to a member of the Coast Guard under section 1044 or 1044a of title 10; and

(D) medical expenses, including hospital expenses of the biological mother of the child to be adopted and of a newborn infant to be adopted.

(3) The term ''qualified adoption agency'' means any of the following:

(A) A State or local government agency which has responsibility under State or local law for child placement through adoption.

(B) A nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption.

(C) Any other source authorized by a State to provide adoption placement if the adoption is supervised by a court under State or local law.

(Added Pub. L. 102–190, div. A, title VI, § 651(b)(1), Dec. 5, 1991, 105 Stat. 1386; amended Pub. L. 102–484, div. A, title X, § 1054(g), Oct. 23, 1992, 106 Stat. 2503; Pub. L. 104–201, div. A, title VI, § 652(b), Sept. 23, 1996, 110 Stat. 2582.)

AMENDMENTS

1996—Subsec. (g)(1). Pub. L. 104–201, § 652(b)(1), substituted ''qualified adoption agency.'' for ''State or local government agency which has responsibility under State or local law for child placement through adoption or by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption.''

Subsec. (g)(3). Pub. L. 104–201, § 652(b)(2), added par. (3).

1992—Subsec. (b). Pub. L. 102–484 inserted a close parenthesis before period at end.

EFFECTIVE DATE

Section effective Dec. 5, 1991, and applicable to adoptions completed on or after that date, see section 651(c) of Pub. L. 102–190, set out as a note under section 1052 of Title 10, Armed Forces.

REIMBURSEMENT FOR ADOPTIONS COMPLETED DURING INTERIM BETWEEN TEST AND PERMANENT PROGRAM

For provisions relating to reimbursement for adoption expenses and time period for application, see section 652 of Pub. L. 102–484, set out as a note under section 1052 of Title 10, Armed Forces.

§ 515. Child development services

(a) The Commandant may make child development services available for members and civilian employees of the Coast Guard, and thereafter as space is available for members of the Armed Forces and Federal civilian employees. Child development service benefits provided under the authority of this section shall be in addition to benefits provided under other laws.

(b)(1) Except as provided in paragraph (2), the Commandant may require that amounts received as fees for the provision of services under this section at Coast Guard child development centers be used only for compensation of employees at those centers who are directly involved in providing child care.

(2) If the Commandant determines that compliance with the limitation in paragraph (1) would result in an uneconomical and inefficient use of such fee receipts, the Commandant may (to the extent that such compliance would be uneconomical and inefficient) use such receipts—

(A) for the purchase of consumable or disposable items for Coast Guard child development centers; and

(B) if the requirements of such centers for consumable or disposable items for a given fiscal year have been met, for other expenses of those centers.

(c) The Commandant shall provide for regular and unannounced inspections of each child development center under this section and may use Department of Defense or other training programs to ensure that all child development center employees under this section meet minimum standards of training with respect to early childhood development, activities and disciplinary techniques appropriate to children of different ages, child abuse prevention and detection, and appropriate emergency medical procedures.

(d) Of the amounts available to the Coast Guard each fiscal year for operating expenses (and in addition to amounts received as fees), the Secretary may use for child development services under this section an amount not to exceed the total amount the Commandant estimates will be received by the Coast Guard in the fiscal year as fees for the provision of those services.

(e) The Commandant may use appropriated funds available to the Coast Guard to provide assistance to family home day care providers so

that family home day care services can be provided to uniformed service members and civilian employees of the Coast Guard at a cost comparable to the cost of services provided by Coast Guard child development centers.

(f) The Secretary shall promulgate regulations to implement this section. The regulations shall establish fees to be charged for child development services provided under this section which take into consideration total family income.

(g) For purposes of this section, the term ''child development center'' does not include a child care services facility for which space is allotted under section 616 of the Act of December 22, 1987 (40 U.S.C. 490b).

(Added Pub. L. 104–324, title II, § 201(a), Oct. 19, 1996, 110 Stat. 3906.)

REFERENCES IN TEXT

Section 616 of the Act of December 22, 1987 (40 U.S.C. 490b), referred to in subsec. (g), is section 101(m) [title VI, § 616] of Pub. L. 100–202, Dec. 22, 1987, 101 Stat. 1329–390, 1329–423, as amended, which was classified to section 490b of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as section 590(a)–(d) and (f) of Title 40, Public Buildings, Property, and Works, by Pub. L. 107–217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304.

USE OF COAST GUARD AND MILITARY CHILD DEVELOPMENT CENTERS

Pub. L. 108–293, title II, § 225, Aug. 9, 2004, 118 Stat. 1040, provided that: ''The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, when operating other than as a service in the Navy, may agree to provide child care services to members of the armed forces, with reimbursement, in Coast Guard and military child development centers supported in whole or in part with appropriated funds. For purposes of military child development centers operated under the authority of subchapter II of chapter 88 of title 10, United States Code, the child of a member of the Coast Guard shall be considered the same as the child of a member of any of the other armed forces.''

§ 516. Presentation of United States flag upon retirement

(a) PRESENTATION OF FLAG.—Upon the release of a member of the Coast Guard from active duty for retirement, the Secretary of Homeland Security shall present a United States flag to the member.

(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.

(Added Pub. L. 105–261, div. A, title VI, § 644(d)(1), Oct. 17, 1998, 112 Stat. 2049; amended Pub. L. 106–65, div. A, title VI, § 652(e), Oct. 5, 1999, 113 Stat. 666; Pub. L. 107–296, title XVII, § 1704(a), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title X, § 1062(b)(2), Dec. 2, 2002, 116 Stat. 2650.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

Subsec. (c). Pub. L. 107–314 substituted ''this section'' for ''his section''.

1999—Subsec. (b). Pub. L. 106–65 substituted ''under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.'' for ''under this section or section 3681, 6141, and 8681 of title 10.''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE

Section applicable with respect to releases from active duty described in this section and sections 3681, 6141, and 8641 of Title 10, Armed Forces, on or after Oct. 1, 1998, see section 644(e) of Pub. L. 105–261, set out as a note under section 3681 of Title 10.

§ 517. Travel card management

(a) IN GENERAL.—The Secretary may require that travel or transportation allowances due a civilian employee or military member of the Coast Guard be disbursed directly to the issuer of a Federal contractor-issued travel charge card, but only in an amount not to exceed the authorized travel expenses charged by that Coast Guard member to that travel charge card issued to that employee or member.

(b) WITHHOLDING OF NONDISPUTED OBLIGATIONS.—The Secretary may also establish requirements similar to those established by the Secretary of Defense pursuant to section 2784a of title 10 for deduction or withholding of pay or retired pay from a Coast Guard employee, member, or retired member who is delinquent in payment under the terms of the contract under which the card was issued and does not dispute the amount of the delinquency.

(Added Pub. L. 108–293, title II, § 210(a), Aug. 9, 2004, 118 Stat. 1036.)

[CHAPTER 15—REPEALED]

[§§ 561 to 576. Repealed. May 5, 1950, ch. 169, § 14(v), 64 Stat. 148]

Sections, act Aug. 4, 1949, ch. 393, 63 Stat. 538–544, related to discipline in the Coast Guard. See section 801 et seq. of Title 10, Armed Forces.

Sections 562 to 564 were amended by act Aug. 3, 1950, ch. 536, §§ 27 to 29, respectively, 64 Stat. 407.

CHAPTER 17—ADMINISTRATION

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670. Procurement authority for family housing.
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AMENDMENTS

2006—Pub. L. 109–241, title IX, § 901(b), July 11, 2006, 120 Stat. 564, amended Pub. L. 108–293, § 212(b), effective Aug. 9, 2004. See 2004 Amendment note below.

Pub. L. 109–241, title II, § 205(b), July 11, 2006, 120 Stat. 521, added item 677.

2004—Pub. L. 108–293, title II, § 212(b), Aug. 9, 2004, 118 Stat. 1037, as amended by Pub. L. 109–241, title IX, § 901(b), July 11, 2006, 120 Stat. 564, substituted ''Long-term lease of special purpose facilities'' for ''Long-term lease authority for navigation and communications systems sites'' in item 672.

Pub. L. 108–293, title II, § 205(e)(2), Aug. 9, 2004, 118 Stat. 1033, substituted ''indemnity'' for ''immunity'' in item 637.

2002—Pub. L. 107–296, title XVII, § 1704(f)(2), Nov. 25, 2002, 116 Stat. 2316, which directed the redesignation of item 673 ''Small boat station rescue capability'' as item 673a, could not be executed because of prior amendment by Pub. L. 107–295, § 405(c), see below.

Pub. L. 107–295, title IV, §§ 405(c), 417(b), Nov. 25, 2002, 116 Stat. 2116, 2123, added items 672a and 674 to 676, and struck out item 673 ''Small boat station rescue capability'' and former item 674 ''Small boat station closures''.

1996—Pub. L. 104–324, title III, § 309(b), Oct. 19, 1996, 110 Stat. 3919, added item 673 ''Small boat station rescue capability'' and item 674.

Pub. L. 104–201, div. A, title X, § 1009(a)(2)(B), Sept. 23, 1996, 110 Stat. 2634, added item 673 ''Designation, powers, and accountability of deputy disbursing officials''.

1993—Pub. L. 103–206, title III, §§ 302(b), 303(b), 304(b), Dec. 20, 1993, 107 Stat. 2423, 2424, added items 670, 671, and 672.

1992—Pub. L. 102–587, title V, §§ 5203(b), 5204(b), Nov. 4, 1992, 106 Stat. 5074, added items 645 and 669.

1990—Pub. L. 101–595, title III, §§ 306(b), 319(b), Nov. 16, 1990, 104 Stat. 2985, 2989, added items 667 and 668.

Pub. L. 101–510, div. A, title III, § 327(d)(2), Nov. 5, 1990, 104 Stat. 1532, added item 640.

1989—Pub. L. 101–225, title II, § 206(b), Dec. 12, 1989, 103 Stat. 1913, added item 666.

1988—Pub. L. 100–690, title VII, § 7401(b), Nov. 18, 1988, 102 Stat. 4483, substituted ''immunity for firing at or into vessel'' for ''immunity of Coast Guard officer'' in item 637.

Pub. L. 100–448, §§ 26(b), 29(b), Sept. 28, 1988, 102 Stat. 1848, 1849, added items 659 and 665.

1986—Pub. L. 99–509, title V, § 5102(a)(1), Oct. 21, 1986, 100 Stat. 1925, added item 664.

1982—Pub. L. 97–295, § 2(17), (19)(B), (20)(B), Oct. 12, 1982, 96 Stat. 1302, 1303, struck out items 645 and 659, and added items 661, 662, and 663.

1980—Pub. L. 96–376, § 10(b), Oct. 3, 1980, 94 Stat. 1511, added item 660.

1977—Pub. L. 95–61, § 4(2), July 1, 1977, 91 Stat. 260, added item 659.

1974—Pub. L. 93–283, § 1(11), May 14, 1974, 88 Stat. 140, substituted ''Use of moneys appropriated for acquisition, construction, and improvement; for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters'' for ''Use of appropriations to restore, replace, establish, or develop facilities'' in item 656, and added item 658.

1972—Pub. L. 92–417, § 2(b), Aug. 29, 1972, 86 Stat. 656, substituted ''Admiralty claims against the United States'' for ''Claims for damages occasioned by vessels'' in item 646.

1970—Pub. L. 91–278, § 1(15), June 12, 1970, 84 Stat. 306, added item 657.

1963—Pub. L. 88–45, § 3, June 21, 1963, 77 Stat. 69, added item 656.

1962—Pub. L. 87–526, § 1(7), July 10, 1962, 76 Stat. 142, added item 655.

1959—Pub. L. 86–159, § 2, Aug. 14, 1959, 73 Stat. 358, added item 654.

1958—Pub. L. 85–861, § 5(1), Sept. 2, 1958, 72 Stat. 1547, struck out item 640.

1956—Act Aug. 7, 1956, ch. 1023, § 1(b), 70 Stat. 1077, substituted ''Coast Guard Supply Fund'' for ''Coast Guard supply fund and supply account'' in item 650.

§ 631. Delegation of powers by the Secretary

The Secretary is authorized to confer or impose upon the Commandant any of the rights, privileges, powers, or duties, in respect to the administration of the Coast Guard, vested in or imposed upon the Secretary by this title or other provisions of law.

(Aug. 4, 1949, ch. 393, 63 Stat. 544; Pub. L. 94–546, § 1(33), Oct. 18, 1976, 90 Stat. 2521.)

HISTORICAL AND REVISION NOTES

This section authorizes the Secretary to delegate to the Commandant any of the authority granted to him in respect to the administration of the Coast Guard. Such power to delegate is granted by other statutes to the heads of many of the executive departments. 81st Congress, House Report No. 557.

[1] So in original. Capitalization does not conform to section catchline.

[2] So in original. Does not conform to section catchline.

[3] So in original. Probably should be followed by a period.

AMENDMENTS

1976—Pub. L. 94–546 substituted ''Secretary'' for ''Secretary of the Treasury'' wherever appearing and substituted ''Commandant'' for ''Commandant of the Coast Guard''.

ADMINISTRATIVE ADVISORY COMMITTEES; SOLICITATION OF NOMINATIONS FOR MEMBERSHIP; PUBLICATION IN FEDERAL REGISTER; DISCLOSURES TO CONGRESS; COMPENSATION AND TRAVEL EXPENSES

Pub. L. 97–322, title I, § 118(e), Oct. 15, 1982, 96 Stat. 1587, provided that:

''(1) The Secretary of the department in which the Coast Guard is operating shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on any advisory committee established administratively for the purpose of giving advice and recommendations to such Secretary or the Commandant of the Coast Guard with respect to functions of the Coast Guard.

''(2) Any advisory committee described in paragraph (1) of this subsection is authorized to make available to Congress any information, advice, and recommendations which the committee is authorized to give to the Secretary of the department in which the Coast Guard is operating or the Commandant of the Coast Guard.

''(3) Members of any advisory committee described in paragraph (1) of this subsection who are not officers or employees of the United States shall serve without pay and members of any such committee who are officers or employees of the United States shall receive no additional pay on account of their service on such committee. While away from their homes or regular places of business, members of any such committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.''

§ 632. Functions and powers vested in the Commandant

All powers and functions conferred upon the Coast Guard, or the Commandant, by or pursuant to this title or any other law shall, unless otherwise specifically stated, be executed by the Commandant subject to the general supervision of the Secretary. In order to execute the powers and functions vested in him, the Commandant may assign personnel of the Coast Guard to duty in the District of Columbia, elsewhere in the United States, in any territory of the United States, and in any foreign country, but such personnel shall not be assigned to duties in any foreign country without the consent of the government of that country; assign to such personnel such duties and authority as he deems necessary; and issue rules, orders, and instructions, not inconsistent with law, relating to the organization, internal administration, and personnel of the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 545.)

HISTORICAL AND REVISION NOTES

Based on title 5, U.S.C., 1946 ed., § 41, and on title 14, U.S.C., 1946 ed. §§ 22, 58, 91, 99, 103 (R.S. 2749; June 18, 1878, ch. 265, §§ 7, 8, 22 Stat. 164; May 4, 1882, ch. 117, § 5, 22 Stat. 57; Mar. 4, 1907, ch. 2918, 34 Stat. 1309; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; Aug. 29, 1916, ch. 417, 39 Stat. 601; June 10, 1921, ch. 18, § 304, 42 Stat. 23; July 3, 1926, ch. 742, § 9, 44 Stat. 817).

Said section 91 has been divided. That part dealing with investigation of plans and inventions is covered in section 93(d) of this title. The remainder is covered in general terms. It has been rewritten in broad terms, making clear that the Commandant is granted the necessary authority to administer the Coast Guard under the Secretary, including authority to issue rules, orders, and instructions.

This section is primarily a consolidation of existing functions rather than a codification of existing laws. It does not, for the most part, grant new authority to the Coast Guard as an organization. It merely clarifies the method by which Coast Guard functions shall be administered. Under existing statutes, functions relating to the Coast Guard have been conferred upon the President, the Secretary of the Treasury, and the Commandant, and sometimes upon the Secretary of the Treasury in times of peace and the Secretary of the Navy in times of war. This revision confers some functions directly upon the Coast Guard, and this section provides for the execution of those functions by the Commandant, the military head of the organization, thereby making for consistency and uniformity. The functions are to be executed ''subject to the general supervision of the Secretary''. Title 14, U.S.C., 1946 ed., § 91 now grants authority to the Commandant to prescribe regulations; this is changed to the issuance of rules, orders, and instructions as the promulgation of regulations in a military organization is properly a function of the Secretary.

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 633. Regulations

In addition to the authority conferred by other provisions of this title the Secretary may promulgate such regulations and orders as he deems appropriate to carry out the provisions of this title or any other law applicable to the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 545.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 92, 185e (June 20, 1874, ch. 344, § 8, 18 Stat. 127; May 26, 1906, ch. 2556, § 1, 34 Stat. 200; May 24, 1939, ch. 146, § 6, 53 Stat. 756).

This section enlarges said sections to prescribe what is generally understood in a military organization, that the promulgation of regulations is a function of the head of the Department.

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 634. Officers holding certain offices

(a) Any officer, including any petty officer, may be designated by the Commandant as captain of the port or ports or adjacent high seas or waters over which the United States has jurisdiction, as the Commandant deems necessary to facilitate execution of Coast Guard duties.

(b) Commissioned officers may be appointed as United States Deputy Marshals in Alaska.

(Aug. 4, 1949, ch. 393, 63 Stat. 545; Pub. L. 86–70, § 11, June 25, 1959, 73 Stat. 143; Pub. L. 97–295, § 2(18), Oct. 12, 1982, 96 Stat. 1302.)

HISTORICAL AND REVISION NOTES

1949 ACT

Subsection (a) is based on title 14, U.S.C., 1946 ed., § 48 (June 22, 1936, ch. 705, § 4, 49 Stat. 1821; July 11, 1941, ch. 290, § 7, 55 Stat. 585).

Subsection (b) is derived from the last 6 lines of title 48, U.S.C., 1946 ed., § 1460 (July 31, 1939, ch. 399, 53 Stat. 1143). An additional provision is added waiving the requirement of a performance bond inasmuch as Coast Guard officers appointed as United States commissioners or marshals are not custodians of funds, and in any case their oath as a commissioned officer appears to be sufficient to insure faithful performance of duty.

Changes were made in phraseology. 81st Congress, House Report No. 557.

1982 ACT

This amends 14:634(b) to reflect the effect of 28:631(c) and sections 401(a) and 402(a) of the Federal Magistrates Act (Pub. L. 90–578, Oct. 17, 1968, 82 Stat. 1118).

AMENDMENTS

1982—Subsec. (b). Pub. L. 97–295 struck out ''United States Commissioners or'' after ''appointed as'' and last sentence which provided that any commissioned officer appointed as United States Commissioner in Alaska shall not be required to execute a bond for the faithful performance of his official duties as such Commissioner.

1959—Subsec. (b). Pub. L. 86–70 substituted ''in Alaska'' for ''in and for the territory of Alaska'' in two places.

§ 635. Oaths required for boards

The members of a retiring board, selection board, examining board, and any other board authorized to be assembled pursuant to this title shall be sworn to discharge their duties honestly and impartially, the oath to be administered to the members by the President or other presiding officer of the board, and to him by the junior member or recorder.

(Aug. 4, 1949, ch. 393, 63 Stat. 545.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 170 (Apr. 12, 1902, ch. 501, § 5, 32 Stat. 100).

Said section has been divided. That part relating to oaths is covered in this section. The remainder is covered in section 425 of this title.

Said section is enlarged to include the oaths required for all boards, rather than to cover retiring boards only. 81st Congress, House Report No. 557.

§ 636. Administration of oaths

(a) Such commissioned and warrant officers of the Coast Guard as may be designated by the Commandant may, pursuant to rules prescribed by the Commandant, exercise the general powers of a notary public in the administration of oaths for the following purposes:

(1) execution, acknowledgment, and attestation of instruments and papers, oaths of allegiance in connection with recruiting, oaths in connection with courts and boards, and all other notarial acts in connection with the proper execution of Coast Guard functions;

(2) execution, acknowledgment, and attestation of instruments and papers, and all other notarial acts in time of war or national emergency; and

(3) execution, acknowledgment, and attestation of instruments and papers, and all other notarial acts in Alaska and places beyond the continental limits of the United States where the Coast Guard is serving.

(b) No fee of any character shall be charged by any commissioned or warrant officer for performing notarial acts. The signature and indication of grade of any commissioned or warrant officer performing any notarial act shall be prima facie evidence of his authority.

(Aug. 4, 1949, ch. 393, 63 Stat. 545.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 26, 27 (Apr. 16, 1908, ch. 145, § 12, 35 Stat. 63; June 5, 1920, ch. 235, § 1, 41 Stat. 880).

Said sections are rewritten, the provisions concerning oaths being broadened to conform more closely to law applicable to officers of the Navy (see title 34, U.S.C., 1946 ed., § 217a). 81st Congress, House Report No. 557.

§ 637. Stopping vessels; indemnity for firing at or into vessel

(a)(1) Whenever any vessel liable to seizure or examination does not stop on being ordered to do so or on being pursued by an authorized vessel or authorized aircraft which has displayed the ensign, pennant, or other identifying insignia prescribed for an authorized vessel or authorized aircraft, the person in command or in charge of the authorized vessel or authorized aircraft may, subject to paragraph (2), fire at or into the vessel which does not stop.

(2) Before firing at or into a vessel as authorized in paragraph (1), the person in command or in charge of the authorized vessel or authorized aircraft shall fire a gun as a warning signal, except that the prior firing of a gun as a warning signal is not required if that person determines that the firing of a warning signal would unreasonably endanger persons or property in the vicinity of the vessel to be stopped.

(b) The person in command of an authorized vessel or authorized aircraft and all persons acting under that person's direction shall be indemnified from any penalties or actions for damages for firing at or into a vessel pursuant to subsection (a). If any person is killed or wounded by the firing, and the person in command of the authorized vessel or authorized aircraft or any person acting pursuant to their orders is prosecuted or arrested therefor, they shall be forthwith admitted to bail.

(c) A vessel or aircraft is an authorized vessel or authorized aircraft for purposes of this section if—

(1) it is a Coast Guard vessel or aircraft; or

(2) it is a surface naval vessel or military aircraft on which one or more members of the Coast Guard are assigned pursuant to section 379 of title 10.

(Aug. 4, 1949, ch. 393, 63 Stat. 546; Pub. L. 100–690, title VII, § 7401(a), Nov. 18, 1988, 102 Stat. 4483; Pub. L. 106–65, div. A, title X, § 1022, Oct. 5, 1999, 113 Stat. 746; Pub. L. 108–293, title II, § 205(a)–(c), (e)(1), Aug. 9, 2004, 118 Stat. 1032, 1033.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 68 (R.S. 2765).

Aircraft are included within the protective terms of this section which permits aircraft to stop vessels but makes no provision for stopping aircraft.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

2004—Pub. L. 108–293, § 205(e)(1), substituted ''indemnity'' for ''immunity'' in section catchline.

Subsec. (a). Pub. L. 108–293, § 205(a), designated existing provisions as par. (1), substituted ''subject to paragraph (2),'' for ''after a gun has been fired by the authorized vessel or authorized aircraft as a warning signal,'', and added par. (2).

Subsec. (c). Pub. L. 108–293, § 205(b), inserted ''or'' after the semicolon at end of par. (1), inserted ''or military aircraft'' after ''surface naval vessel'' and substituted a period for ''; or'' in par. (2), and struck out par. (3) which read as follows: ''subject to subsection

(d), it is a naval aircraft that has one or more members of the Coast Guard on board and is operating from a surface naval vessel described in paragraph (2).''

Subsec. (d). Pub. L. 108–293, § 205(c), struck out subsec. (d) which related to inclusion of naval aircraft as authorized aircraft for purposes of this section.

1999—Subsec. (c)(3). Pub. L. 106–65, § 1022(a), added par. (3).

Subsec. (d). Pub. L. 106–65, § 1022(b), added subsec. (d).

1988—Pub. L. 100–690 substituted ''immunity for firing at or into vessel'' for ''immunity of Coast Guard officer'' in section catchline, and amended text generally. Prior to amendment, text read as follows:

''(a) Whenever any vessel liable to seizure or examination does not bring-to, on being ordered to do so or on being chased by any Coast Guard vessel or aircraft which has displayed the ensign, pennant, or other identifying insignia prescribed for vessels or aircraft of the Coast Guard, the person in command or in charge of such Coast Guard vessel or such Coast Guard aircraft may, after a gun has been fired by the Coast Guard vessel or aircraft as a warning signal, fire at or into such vessel which does not bring-to.

''(b) The person in command of such Coast Guard vessel or such Coast Guard aircraft and all persons acting by or under his direction shall be indemnified from any penalties or actions for damages for so doing. If any person is killed or wounded by such firing, and the person in command of the Coast Guard vessel or aircraft or any person acting pursuant to his orders is prosecuted or arrested therefor, he shall be forthwith admitted to bail.''

REPORT ON VESSELS OR AIRCRAFT FIRED AT OR INTO WITHOUT WARNING

Pub. L. 108–293, title II, § 205(d), Aug. 9, 2004, 118 Stat. 1033, provided that: ''The Commandant of the Coast Guard shall transmit a report annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives describing the location, vessels or aircraft, circumstances, and consequences of each incident in the 12-month period covered by the report in which the person in command or in charge of an authorized vessel or an authorized aircraft (as those terms are used in section 637 of title 14, United States Code) fired at or into a vessel without prior use of the warning signal as authorized by that section.''

§ 638. Coast Guard ensigns and pennants

(a) Coast Guard vessels and aircraft shall be distinguished from other vessels and aircraft by an ensign, pennant, or other identifying insignia of such design as prescribed by the Secretary. Such ensign, pennant, or other identifying insignia shall be displayed in accordance with regulations prescribed by the Secretary.

(b) No vessel or aircraft without authority shall carry, hoist, or display any ensign, pennant, or other identifying insignia prescribed for, or intended to resemble, any ensign, pennant, or other identifying insignia prescribed for Coast Guard vessels or aircraft. Every person violating this subsection shall be fined not more than $5,000, or imprisoned for not more than two years, or both.

(Aug. 4, 1949, ch. 393, 63 Stat. 546.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 64 (R.S. 2764; Aug. 5, 1935, ch. 438, title III, § 308, 49 Stat. 528).

Aircraft are included within the provisions of this section.

The Secretary rather than the President is given the authority to design ensigns and pennants.

Unauthorized display of such insignia is made illegal anywhere rather than only ''within the jurisdiction of the United States''.

The language is broadened to include ''any person violating this section''; existing law applies to masters of offending vessels only. 81st Congress, House Report No. 557.

§ 639. Penalty for unauthorized use of words "Coast Guard"

No individual, association, partnership, or corporation shall, without authority of the Commandant, use the combination of letters ''USCG'' or ''USCGR'', the words ''Coast Guard,'' ''United States Coast Guard,'' ''Coast Guard Reserve,'' ''United States Coast Guard Reserve,'' ''Coast Guard Auxiliary,'' ''United States Coast Guard Auxiliary,'' ''Lighthouse Service,'' ''Life Saving Service,'' or any combination or variation of such letters or words alone or with other letters or words, as the name under which he or it shall do business, for the purpose of trade, or by way of advertisement to induce the effect of leading the public to believe that any such individual, association, partnership, or corporation has any connection with the Coast Guard. No individual, association, partnership, or corporation shall falsely advertise, or otherwise represent falsely by any device whatsoever, that any project or business in which he or it is engaged, or product which he or it manufactures, deals in, or sells, has been in any way endorsed, authorized, or approved by the Coast Guard. Every person violating this section shall be fined not more than $1,000, or imprisoned not more than one year, or both.

(Aug. 4, 1949, ch. 393, 63 Stat. 546; Aug. 3, 1950, ch. 536, § 30, 64 Stat. 408.)

HISTORICAL AND REVISION NOTES

This section makes the unauthorized use of the words ''Coast Guard'' or any derivative thereof, a crime. This is believed to be a desirable prohibition in view of the many commercial organizations which are manufacturing equipment approved by the Coast Guard and selling same to vessels in the United States. 81st Congress, House Report No. 557.

AMENDMENTS

1950—Act Aug. 3, 1950, made it possible for Commandant to grant authority to private business organizations to use terms or designations otherwise prohibited by this section.

COAST GUARD CITY, USA

Pub. L. 105–383, title IV, § 409, Nov. 13, 1998, 112 Stat. 3431, provided that: ''The Commandant of the Coast Guard may recognize the community of Grand Haven, Michigan, as 'Coast Guard City, USA'. If the Commandant desires to recognize any other community in the same manner or any other community requests such recognition from the Coast Guard, the Commandant shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives 90 days prior to approving such recognition.''

§ 640. Coast Guard band recordings for commercial sale

(a) The Coast Guard band may produce recordings for commercial sale.

(b) Amounts received as proceeds from the sale of any such recordings may be credited to appli-

cable appropriations of the Coast Guard for expenses of the Coast Guard band.

(c) The Secretary shall prescribe regulations governing the accounting of such proceeds.

(Added Pub. L. 101–510, div. A, title III, § 327(d)(1), Nov. 5, 1990, 104 Stat. 1532.)

PRIOR PROVISIONS

A prior section, acts Aug. 4, 1949, ch. 393, 63 Stat. 546; June 15, 1955, ch. 142, 69 Stat. 134, related to interchange of supplies between armed forces, prior to repeal by Pub. L. 85–861, § 36A, C(1), Sept. 2, 1958, 72 Stat. 1569, 1571. See section 2571 of Title 10, Armed Forces.

§ 641. Disposal of certain material

(a) The Commandant subject to applicable regulations under subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) may dispose of, with or without charge, to the Coast Guard Auxiliary, including any incorporated unit thereof, to the sea-scout service of the Boy Scouts of America, and to any public body or private organization not organized for profit having an interest therein for historical or other special reasons, such obsolete or other material as may not be needed for the Coast Guard.

(b) The Commandant may, under regulations prescribed by the Secretary, sell apparatus or equipment manufactured by or in use in the Coast Guard, which is not readily procurable in the open market. The money received from such sale shall be deposited in the Treasury to the credit of the current appropriation from which purchase of similar apparatus or equipment is authorized.

(c)(1) The Commandant may—

(A) provide for the sale of recyclable materials that the Coast Guard holds;

(B) provide for the operation of recycling programs at Coast Guard installations; and

(C) designate Coast Guard installations that have qualified recycling programs for the purposes of subsection (d)(2).

(2) Recyclable materials shall be sold in accordance with sections 541–555 of title 40, except that the Commandant may conduct sales of materials for which the proceeds of sale will not exceed $5,000 under regulations prescribed by the Commandant.

(d)(1) Proceeds from the sale of recyclable materials at a Coast Guard installation shall be credited to funds available for operations and maintenance at that installation in amounts sufficient to cover operations, maintenance, recycling equipment, and overhead costs for processing recyclable materials at the installation.

(2) If, after funds are credited, a balance remains available to a Coast Guard installation and the installation has a qualified recycling program, not more than 50 percent of that balance may be used at the installation for projects for pollution abatement, energy conservation, and occupational safety and health activities. The cost of the project may not be greater than 50 percent of the amount permissible for a minor construction project.

(3) The remaining balance available to a Coast Guard,[1] installation may be transferred to the Coast Guard Morale, Welfare, and Recreation Program.

(e) If the balance available to the Coast Guard installation under this section at the end of a fiscal year is in excess of $200,000, the amount of that excess shall be deposited in the general fund of the Treasury as offsetting receipts of the Department in which the Coast Guard is operating and ascribed to Coast Guard activities.

(Aug. 4, 1949, ch. 393, 63 Stat. 547; Oct. 31, 1951, ch. 654, § 2(11), 65 Stat. 707; Pub. L. 97–295, § 2(4), Oct. 12, 1982, 96 Stat. 1301; Pub. L. 102–587, title V, § 5202, Nov. 4, 1992, 106 Stat. 5071; Pub. L. 104–324, title IV, § 408, title XI, § 1119, Oct. 19, 1996, 110 Stat. 3925, 3973; Pub. L. 107–217, § 3(c)(3), Aug. 21, 2002, 116 Stat. 1298.)

HISTORICAL AND REVISION NOTES

Subsection (a) is based on title 14, U.S.C., 1946 ed., § 43a (Apr. 10, 1936, ch. 179, 49 Stat. 1195). The authorization is enlarged to include any public body or private organization not organized for profit, and the authority to make disposal is placed in the Commandant rather than in the Secretary.

Subsection (b) is based on title 33, U.S.C., 1946 ed., § 752a (May 22, 1926, ch. 371, § 5, 44 Stat. 626).

Changes were made in phraseology. 81st Congress, House Report No. 557.

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title III of the Act is classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–217, § 3(c)(3)(A), inserted ''subtitle I of title 40 and title III of'' before ''the Federal Property and Administrative Services Act of 1949'' and substituted ''(41 U.S.C. 251 et seq.)'' for ''(40 U.S.C. 471 et seq.)''.

Subsec. (c)(2). Pub. L. 107–217, § 3(c)(3)(B), substituted ''sections 541–555 of title 40'' for ''section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484)''.

1996—Subsec. (a). Pub. L. 104–324, § 408, inserted ''to the Coast Guard Auxiliary, including any incorporated unit thereof,'' after ''with or without charge,'' and struck out ''to any incorporated unit of the Coast Guard Auxiliary,'' after ''Boy Scouts of America,''.

Subsec. (c)(2). Pub. L. 104–324, § 1119, inserted '', except that the Commandant may conduct sales of materials for which the proceeds of sale will not exceed $5,000 under regulations prescribed by the Commandant'' before period at end.

1992—Subsecs. (c) to (e). Pub. L. 102–587 added subsecs. (c) to (e).

1982—Subsec. (a). Pub. L. 97–295 substituted ''(40 U.S.C. 471 et seq.)'' for '', as amended,'' after ''Act of 1949''.

1951—Subsec. (a). Act Oct. 31, 1951, inserted reference to applicable regulations of the Federal Property and Administrative Services Act of 1949, as amended, and substituted ''incorporated'' for ''regularly organized flotilla or other organized''.

§ 642. Deposit of damage payments

Whenever an aid to navigation or other property belonging to the Coast Guard is damaged or destroyed by a private person, and such private person or his agent shall pay to the satisfaction of the proper official of the Coast Guard for the

[1] So in original. The comma probably should not appear.

cost of repair or replacement of such property, the Commandant may accept and deposit such payments, through proper officers of the Fiscal Service, Treasury Department, in special deposit accounts in the Treasury, for payment therefrom to the person or persons repairing or replacing the damaged property and refundment of amounts collected in excess of the cost of the repairs or replacements concerned. In the event that repair or replacement of the damaged property is effected by the Coast Guard, the appropriations bearing the cost thereof and current at the time collection is made shall be reimbursed from the special deposit account.

(Aug. 4, 1949, ch. 393, 63 Stat. 547.)

HISTORICAL AND REVISION NOTES

Based on title 33, U.S.C., 1946 ed., § 721a (Aug. 16, 1937, ch. 665, § 2, 50 Stat. 667).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 643. Rewards for apprehension of persons interfering with aids to navigation

The Coast Guard may offer and pay rewards for the apprehension and conviction, or for information helpful therein, of persons found interfering in violation of law with aids to navigation maintained by the Coast Guard; or for information leading to the discovery of missing Coast Guard property or to recovery thereof.

(Aug. 4, 1949, ch. 393, 63 Stat. 547.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 50c (Aug. 2, 1946, ch. 756, § 32, 60 Stat. 857).

Section is enlarged to provide for payment of rewards for information leading to the discovery or recovery of missing Coast Guard property. 81st Congress, House Report No. 557.

§ 644. Payment for the apprehension of stragglers

The Coast Guard may offer and pay rewards for the apprehension and delivery of deserters, stragglers, and prisoners.

(Aug. 4, 1949, ch. 393, 63 Stat. 547.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 147 (May 26, 1906, ch. 2556, § 5, 34 Stat. 200).

Said section has been divided. That part relating to rewards for the apprehension of deserters is placed in this section. That part relating to the acceptance of convicted deserters in the armed forces is placed in section 575 of this title. The first sentence of said section is eliminated inasmuch as it is believed that commanding officers in the Coast Guard are charged with the duty of apprehending deserters without special statutory authority therefor.

The limitation as to amount that could be offered is removed.

The provision concerning money due the deserter is eliminated. 81st Congress, House Report No. 557.

§ 645. Confidentiality of medical quality assurance records; qualified immunity for participants

(a) In this section—

(1) ''medical quality assurance program'' means any activity carried out by or for the Coast Guard to assess the quality of medical care, including activities conducted by individuals, military medical or dental treatment facility committees, or other review bodies responsible for quality assurance, credentials, infection control, patient care assessment (including treatment procedures, blood, drugs, and therapeutics) medical records, health resources management review and identification and prevention of medical or dental incidents and risks.

(2) ''medical quality assurance record'' means the proceedings, records, minutes, and reports that emanate from quality assurance program activities described in paragraph (1) and are produced or compiled by the Coast Guard as part of a medical quality assurance program.

(3) ''health care provider'' means any military or civilian health care professional who, under regulations prescribed by the Secretary, is granted clinical practice privileges to provide health care services in a military medical or dental treatment facility or who is licensed or certified to perform health care services by a governmental board or agency or professional health care society or organization.

(b) Medical quality assurance records created by or for the Coast Guard as part of a medical quality assurance program are confidential and privileged. The records may not be disclosed to any person or entity except as provided in subsection (d).

(c)(1) Medical quality assurance records are not subject to discovery and may not be admitted into evidence in any judicial or administrative proceeding, except as provided in subsection (d).

(2) Except as provided in this section, an individual who reviews or creates medical quality assurance records for the Coast Guard or who participates in any proceeding that reviews or creates the records may not testify in any judicial or administrative proceeding with respect to the records or with respect to any finding, recommendation, evaluation, opinion, or action taken by that person in connection with the records.

(d)(1) Subject to paragraph (2), a medical quality assurance record may be disclosed, and an individual referred to in subsection (c) may testify in connection with a record only as follows:

(A) To a Federal executive agency or private organization, if necessary to license, accredit, or monitor Coast Guard health care facilities.

(B) To an administrative or judicial proceeding commenced by a present or former Coast Guard or Coast Guard assigned Public Health Service health care provider concerning the termination, suspension, or limitation of clinical privileges of the health care provider.

(C) To a governmental board or agency or to a professional health care society or organization, if necessary to perform licensing, or privileging, or to monitor professional standards for a health care provider who is or was a member or an employee of the Coast Guard or the Public Health Service assigned to the Coast Guard.

(D) To a hospital, medical center, or other institution that provides health care services, if necessary to assess the professional quali-

fications of any health care provider who is or was a member or employee of the Coast Guard or the Public Health Service assigned to the Coast Guard and who has applied for or been granted authority or employment to provide health care services in or on behalf of the institution.

(E) To an officer, member, employee, or contractor of the Coast Guard or the Public Health Service assigned to the Coast Guard if for official purposes.

(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of the agency or instrumentality makes a written request that the record or testimony be provided for a purpose authorized by law.

(G) In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in subparagraph (F), but only with respect to the subject of the proceeding.

(2) Except in a quality assurance action, the identity of any individual receiving health care services from the Coast Guard or the identity of any other individual associated with the agency for the purposes of a medical quality assurance program that is disclosed in a medical quality assurance record shall be deleted from that record or document before any disclosure of the record is made outside the Coast Guard. This requirement does not apply to the release of information under section 552a of title 5.

(e) Except as provided in this section, a person having possession of or access to a record or testimony described by this section may not disclose the contents of the record or testimony.

(f) Medical quality assurance records may not be made available to any person under section 552 of title 5.

(g) An individual who participates in or provides information to an individual that reviews or creates medical quality assurance records is not civilly liable for participating or providing the information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.

(h) Nothing in this section shall be construed as—

(1) authority to withhold from any person aggregate statistical information regarding the results of Coast Guard medical quality assurance programs;

(2) authority to withhold any medical quality assurance record from a committee of either House of Congress, any joint committee of Congress, or the Government Accountability Office if the record pertains to any matter within their respective jurisdictions;

(3) limiting access to the information in a record created and maintained outside a medical quality assurance program, including a patient's medical records, on the grounds that the information was presented during meetings of a review body that are part of a medical quality assurance program.

(i) Except as otherwise provided in this section, an individual who willfully discloses a medical quality assurance record knowing that the record is a medical quality assurance record, is liable to the United States Government for a civil penalty of not more than $3,000 in the case of a first offense and not more than $20,000 in the case of a subsequent offense.

(Added Pub. L. 102–587, title V, § 5203(a), Nov. 4, 1992, 106 Stat. 5072; amended Pub. L. 104–324, title VII, § 746(b), Oct. 19, 1996, 110 Stat. 3943; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

PRIOR PROVISIONS

A prior section 645, acts Aug. 4, 1949, ch. 393, § 1, 63 Stat. 547; Sept. 3, 1954, ch. 1263, § 34, 68 Stat. 1239; Aug. 23, 1958, Pub. L. 85–738, §§ 4, 5, 72 Stat. 833, provided for settlement of claims incident to activities of Coast Guard, prior to repeal, effective two years after Sept. 26, 1968, by Pub. L. 90–525, § 2, Sept. 26, 1968, 82 Stat. 877. See section 2733 of Title 10, Armed Forces.

AMENDMENTS

2004—Subsec. (h)(2). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

1996—Subsecs. (d) to (h). Pub. L. 104–324 redesignated subsec. (d), relating to disclosure by person with access to a record or testimony, as (e) and redesignated former subsecs. (e) to (h) as (f) to (i), respectively.

§ 646. Admiralty claims against the United States

(a) The Secretary may consider, ascertain, adjust, determine, compromise, or settle, and pay in an amount not more than $100,000, an admiralty claim against the United States for—

(1) damage caused by a vessel in the Coast Guard service or by other property under the jurisdiction of the Department in which the Coast Guard is operating;

(2) compensation for towage and salvage services, including contract salvage, rendered to a vessel in the Coast Guard service or to other property under the jurisdiction of the Department in which the Coast Guard is operating; or

(3) damage caused by a maritime tort committed by an agent or employee of the Department in which the Coast Guard is operating or by property under the jurisdiction of that Department.

(b) Upon acceptance of payment by the claimant, the settlement or compromise of a claim under this section is final and conclusive notwithstanding any other law.

(c) If a claim under this section is settled or compromised for more than $100,000, the Secretary shall certify it to Congress.

(Aug. 4, 1949, ch. 393, 63 Stat. 548; Pub. L. 86–533, § 1(3)(A), June 29, 1960, 74 Stat. 245; Pub. L. 92–417, § 2(a), Aug. 29, 1972, 86 Stat. 655.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 71 (June 15, 1936, ch. 550, 49 Stat. 1514; July 1, 1944, ch. 373, title VII, § 711, 58 Stat. 714; Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1051).

This section closely parallels title 46, U.S.C., 1946 ed., §§ 797, 798, which authorizes the Secretary of the Navy to negotiate amicable settlement of claims against the United States arising out of the operation of Naval vessels. It grants similar authority to the Secretary of the Treasury in relation to vessels in the Coast Guard service, and the limiting amount is reduced from $1,000,000 to $25,000. It is believed that this section will work to

the benefit of the Government by reducing civil litigation and the number of claims which must presently be certified to Congress for appropriations in order to make settlement. It will greatly expedite the settlement of just claims and should result in a considerable overall savings to the Government. 81st Congress, House Report No. 557.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–417 incorporated in part first sentence of former subsec. (a) in text preceding par. (1), substituted ''Secretary'' for ''Secretary of the Treasury'', inserted provisions authorizing payments up to $100,000, struck out second, third, and fourth sentences providing that provisions of this section were supplementary to other provisions, that claims in excess of $3,000 accrued prior to Sept. 8, 1939, would not be considered, and that payments be made out of Coast Guard appropriations, and added pars. (1) to (3).

Subsec. (b). Pub. L. 92–417 incorporated in part first sentence of former subsec. (a).

Subsec. (c). Pub. L. 92–417 incorporated provisions of last sentence of former subsec. (a) and substituted ''100,000'' for ''25,000''.

1960—Subsec. (b). Pub. L. 86–533 repealed subsec. (b) which required the Secretary of the Treasury to report to the Congress the payment of claims determined, compromised, settled, or paid.

§ 647. Claims for damage to property of the United States

The Secretary may consider, ascertain, adjust, determine, compromise, or settle claims for damage cognizable in admiralty in a district court of the United States and all claims for damage caused by a vessel or floating object, to property of the United States under the jurisdiction of the Coast Guard or property for which the Coast Guard may have assumed, by contract or otherwise, any obligation to respond for damage thereto. The Secretary is further authorized to receive in payment of any such claim the amount due the United States pursuant to determination, compromise, or settlement as herein authorized and, upon acceptance of such payment but not until then, such determination, settlement, or compromise of such claim shall be final and conclusive for all purposes, any law to the contrary notwithstanding. All such payments shall be deposited in the Treasury of the United States as miscellaneous receipts. The Secretary is further authorized to execute on behalf of the United States and to deliver in exchange for such payment a full release of such claim. This section, as respects the determination, compromise, settlement, and payment of claims, shall be supplementary to, and not in lieu of, all other provisions of law authorizing the determination, compromise, or settlement of claims for damage to property hereinabove described. No settlement or compromise where there is involved a payment in the net amount of over $100,000 is authorized by this section.

(Aug. 4, 1949, ch. 393, 63 Stat. 549; Pub. L. 86–533, § 1(3)(B), June 29, 1960, 74 Stat. 245; Pub. L. 94–546, § 1(34), Oct. 18, 1976, 90 Stat. 2521; Pub. L. 98–557, § 17(b)(3)(A), Oct. 30, 1984, 98 Stat. 2868.)

HISTORICAL AND REVISION NOTES

This section closely parallels title 34, U.S.C., 1946 ed., §§ 600a, 600b, which authorize the Secretary of the Navy to negotiate amicable settlements of affirmative claims of the United States for damage to Government property. Experience gained by the Navy since enactment of title 34, U.S.C., 1946 ed., §§ 600a–600d, indicates that such amicable settlement reacts to the benefit of the Government in many cases. The provisions of this section would complement those of section 646 of this title and the two sections together would permit the Coast Guard to negotiate the settlement of claims arising out of Coast Guard floating operations, both for and against the United States. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 substituted ''$100,000'' for ''$25,000''.

1976—Pub. L. 94–546 struck out subsection designation ''(a)'' and substituted ''Secretary'' for ''Secretary of the Treasury'' wherever appearing, ''deposited in the Treasury of the United States'' for ''covered into the Treasury of the United States'', and ''authorized by this section'' for ''authorized by this title''.

1960—Pub. L. 86–533 repealed subsec. (b) which required the Secretary of the Treasury to report to Congress with respect to payments received by the United States in excess of $3,000.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 17(b)(3)(B) of Pub. L. 98–557 provided that: ''The amendment made by subparagraph (A) of this paragraph [amending this section] shall apply to all claims considered, ascertained, adjusted, determined, compromised or settled on or after the date of enactment of this Act [Oct. 30, 1984].''

§ 648. Accounting for industrial work

The Secretary may prescribe regulations governing accounting for industrial work, including charges for overhead for civilian labor and for maintenance of industrial plant and equipment, performed at the Coast Guard Yard or such similar Coast Guard industrial establishments as he may designate. Any orders placed for such industrial work shall be covered by a transfer or advance of funds to cover the estimated cost thereof, and shall be credited to such accounts as may be necessary and established by the Secretary to carry out the provisions of this section. Accounts so established shall be available for materials, supplies, or equipment, and civilian labor, including overhead and maintenance, required in performing the work ordered. Upon completion of an order an adjustment will be made to make the amount transferred or advanced equal to the actual cost as computed in accordance with the accounting regulations prescribed by the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 549.)

HISTORICAL AND REVISION NOTES

This section is intended to eliminate a very cumbersome and inefficient method of accounting for industrial jobs at the Coast Guard Yard and other shore establishments where industrial work may be undertaken. Under existing law several accounts must be kept current for each job in progress. Under this statute the working fund would be available for all types of expenditures in connection with a job and the breakdown into separate accounts could be done after the job is complete. The other armed forces have provisions of law which permit a working fund similar to the one provided by this section. 81st Congress, House Report No. 557.

§ 649. Supplies and equipment from stock

Supplies and equipment for special work of the Coast Guard may be furnished from general

stock and the applicable appropriation reimbursed therefor from the respective appropriations for such special work.

(Aug. 4, 1949, ch. 393, 63 Stat. 550.)

HISTORICAL AND REVISION NOTES

Based on title 33, U.S.C., 1934 ed., § 726 (Mar. 4, 1913, ch. 168, 37 Stat. 1018).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 650. Coast Guard Supply Fund

(a) A Coast Guard Supply Fund is authorized. The Secretary may prescribe regulations for designating the classification of materials to be stocked. In these regulations, whenever the fund is extended to include items not previously stocked, or spare parts obtained as part of a procurement under a different account of major items such as vessels or aircraft, whether or not such parts were previously stocked, the Secretary may authorize an increase in the existing capital of the fund by the value of such usable materials transferred thereto from Coast Guard inventories carried in other accounts. Except for the materials so transferred, the fund shall be charged with the cost of materials purchased or otherwise acquired. The fund shall be credited with the value of materials consumed, issued for use, sold, or otherwise disposed of, such values to be determined on a basis that will approximately cover the cost thereof.

(b) Obligations may, without regard to fiscal year limitations, be incurred against anticipated reimbursement to the Coast Guard Supply Fund in such amount and for such period, as the Secretary, with approval of the Director of the Office of Management and Budget, may determine to be necessary to maintain stock levels consistently with planned operations for the next year.

(Aug. 4, 1949, ch. 393, 63 Stat. 550; Aug. 7, 1956, ch. 1023, § 1(a), 70 Stat. 1077; Pub. L. 91–278, § 1(13), June 12, 1970, 84 Stat. 306; Pub. L. 94–546, § 1(35), Oct. 18, 1976, 90 Stat. 2521; Pub. L. 96–376, § 5, Oct. 3, 1980, 94 Stat. 1509.)

HISTORICAL AND REVISION NOTES

A Coast Guard supply fund was established by the Naval Appropriation Act for fiscal year 1943 approved February 7, 1942, 56 Stat. 73. Experience has clearly shown that it is advantageous to the Government to have permanent authorization for such a fund. 81st Congress, House Report No. 557.

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–376 substituted ''these regulations'' for ''such regulations'' and authorized an increase in the capital of the fund when the fund is extended to include spare parts obtained as part of a procurement under a different account of major items such as vessels or aircraft, whether or not such parts were previously stocked.

1976—Subsec. (b). Pub. L. 94–546 substituted ''Office of Management and Budget'' for ''Bureau of the Budget''.

1970—Pub. L. 91–278 designated existing provisions as subsec. (a) and added subsec. (b).

1956—Act Aug. 7, 1956, substituted ''Coast Guard Supply Fund'' for ''Coast Guard supply fund and supply account'' in section catchline, struck out provisions calling for mandatory increase of the Fund by the value of commissary provisions and uniform clothing on hand on July 1, 1949, and inserted provisions permitting the Secretary to prescribe regulations for designating the classification of materials to be stocked and for increasing the existing capital of the Fund.

§ 651. Annual report

In April of each year, the Commandant, through the Secretary, shall report to Congress the operations and expenditures of the Coast Guard during the preceding fiscal year, including amounts collected as provided under section 664 of this title.

(Aug. 4, 1949, ch. 393, 63 Stat. 550; Pub. L. 94–546, § 1(36), Oct. 18, 1976, 90 Stat. 2522; Pub. L. 99–509, title V, § 5102(a)(2), Oct. 21, 1986, 100 Stat. 1926.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 36, 37 (Oct. 2, 1888, ch. 1069, 25 Stat. 511; Jan. 28, 1915, ch. 20, § 5, 38 Stat. 802).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1986—Pub. L. 99–509 substituted ''preceding fiscal year, including amounts collected as provided under section 664 of this title'' for ''preceding fiscal year''.

1976—Pub. L. 94–546 substituted ''April'' for ''January''.

§ 652. Removing restrictions

Any law removing for the duration of a war or national emergency proclaimed by the President any restriction contained in any then-existing law as applied to the Navy, including, but not limited to, restrictions relating to the manner in which purchases may be made and contracts awarded, fiscal operations, and personnel, shall, in the same manner and to the same extent, remove such restrictions as applied to the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 550.)

HISTORICAL AND REVISION NOTES

This section is new and provides that any law removing for the duration of a war or national emergency any restriction contained in any then-existing law as applied to the Navy shall operate in the same manner to remove such restrictions as applied to the Coast Guard. Included are restrictions relating to the manner in which purchases may be made and contracts awarded, fiscal operations, and personnel. This provision is designed to enable the Coast Guard to operate as efficiently as the Navy Department in time of war or during a national emergency and would permit the Coast Guard more effectively to maintain itself in a state of military readiness during periods of emergency. Since the Coast Guard operates as part of the Navy in time of war, it is essential that its operations be as flexible and as efficient as those of the Department of which it is to be a part. This section would prevent inadvertent failures specifically to mention the Coast Guard in legislation of the type described in this section from hindering service operations. 81st Congress, House Report No. 557.

§ 653. Employment of draftsmen and engineers

The Coast Guard may employ temporarily, at the seat of government, draftsmen and engineers for the preparation of plans and specifications for vessels, lighthouses, aids to navigation, and other projects for the Coast Guard that may be authorized or appropriated for by Congress, to be paid from the appropriations applicable to such projects.

(Aug. 4, 1949, ch. 393, 63 Stat. 550.)

HISTORICAL AND REVISION NOTES

Based on title 33, U.S.C., 1946 ed., § 716 (June 17, 1910, ch. 301, § 9, 36 Stat. 538; July 27, 1939, ch. 388, § 1, 53 Stat. 1130).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 654. Public and commercial vessels and other watercraft; sale of fuel, supplies, and services

The Secretary under such regulations as he may prescribe, may sell to public and commercial vessels and other watercraft, such fuel, supplies and furnish such services as may be required to meet the necessities of the vessel or watercraft if such vessel or watercraft is unable—

(1) to procure the fuel, supplies, or services from other sources at its present location; and

(2) to proceed to the nearest port where they may be obtained without endangering the safety of the ship, the health and comfort of its personnel, or the safe condition of the property carried aboard.

Sales under this section shall be at such prices as the Secretary considers reasonable. Payment will be made on a cash basis or on such other basis as will reasonably assure prompt payment. Amounts received from such a sale shall, unless otherwise directed by another provision of law, be credited to the current appropriation concerned and are available for the same purposes as that appropriation.

(Added Pub. L. 86–159, § 1, Aug. 14, 1959, 73 Stat. 357; amended Pub. L. 89–444, § 1(22), June 9, 1966, 80 Stat. 197.)

AMENDMENTS

1966—Pub. L. 89–444 inserted ''Public and commercial vessels and other watercraft; sale of fuel, supplies, and services'' in section catchline.

§ 655. Arms and ammunition; immunity from taxation

No tax on the sale or transfer of firearms, pistols, revolvers, shells, or cartridges may be imposed on such articles when bought with funds appropriated for the Coast Guard.

(Added Pub. L. 87–526, § 1(6), July 10, 1962, 76 Stat. 142; amended Pub. L. 94–546, § 1(37), Oct. 18, 1976, 90 Stat. 2522.)

AMENDMENTS

1976—Pub. L. 94–546 struck out ''United States'' before ''Coast Guard''.

§ 656. Use of moneys appropriated for acquisition, construction, and improvement; for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters

(a) Funds appropriated to or for the use of the Coast Guard for acquisition, construction, and improvement of facilities, for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters shall remain available until expended.

(b) The Secretary may use any funds appropriated to or for the use of the Coast Guard for other construction purposes to restore, repair, or replace facilities that have been damaged or destroyed, including acquisition of sites.

(c) The Secretary may use any funds appropriated to or for the use of the Coast Guard for other construction purposes to acquire, construct, convert, extend, and install at Coast Guard installations and facilities, needed permanent or temporary public works, including the preparation of sites and the furnishing of appurtenances, utilities, and equipment, but excluding the construction of family quarters, costing not more than $200,000 for any one project.

(Added Pub. L. 88–45, § 2, June 21, 1963, 77 Stat. 68; amended Pub. L. 93–283, § 1(9), May 14, 1974, 88 Stat. 140.)

AMENDMENTS

1974—Pub. L. 93–283, § 1(9)(A), substituted ''Use of moneys appropriated for acquisition, construction, and improvement; for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters'' for ''Use of appropriations to restore, replace, establish, or develop facilities'' in section catchline.

Pub. L. 93–283, § 1(9)(B), (C), added subsec. (a) and redesignated former subsecs. (a) and (b) as (b) and (c), respectively.

CURRENT COAST GUARD PLANS FOR CAPITAL INVESTMENT, CUTTERS, AVIATION, AND SHORE FACILITIES; SUBMITTAL TO CONGRESS WITH BUDGET REQUESTS

Pub. L. 96–376, § 12, Oct. 3, 1980, 94 Stat. 1511, which had provided that the President submit to the Congress, with the fiscal year 1982 budget request for the Coast Guard and each subsequent budget request, the current copy of the Coast Guard's Capital Investment Plan, Cutter Plan, Aviation Plan, and Shore Facilities Plan, was repealed and reenacted as section 663 of this title by Pub. L. 97–295, §§ 2(20)(A), 6(b), Oct. 12, 1982, 96 Stat. 1303, 1315.

FUNDS APPROPRIATED TO OR FOR USE OF COAST GUARD AFTER FISCAL YEAR 1977; LIMITATION

Pub. L. 94–406, § 5, Sept. 10, 1976, 90 Stat. 1236, which had provided that after fiscal year 1977, funds may not be appropriated to or for the use of the Coast Guard for the operation and maintenance of the Coast Guard; for acquisition, construction, rebuilding, or improvement of aids to navigation, shore or offshore establishments, vessels, or aircraft, including equipment related thereto; for alteration of obstructive bridges; or for research, development, tests, or evaluation related to any of the above, unless the appropriation of such funds had been authorized by legislation enacted after December 31, 1976, was repealed and reenacted as section 662 of this title by Pub. L. 97–295, §§ 2(20)(A), 6(b), Oct. 12, 1982, 96 Stat. 1303, 1314.

§ 657. Dependent school children

(a) Except as otherwise authorized by the Act of September 30, 1950[1] (20 U.S.C. 236–244), the Secretary may provide, out of funds appropriated to or for the use of the Coast Guard, for the primary and secondary schooling of dependents of Coast Guard personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to pro-

[1] See References in Text note below.

vide adequately for the education of those dependents.

(b) Whenever the Secretary, under such regulations as he may prescribe, determines that schools located in the same area in which a Coast Guard facility is located are not accessible by public means of transportation on a regular basis, he may provide, out of funds appropriated to or for the use of the Coast Guard, for the transportation of dependents of Coast Guard personnel between the schools serving the area and the Coast Guard facility.

(Added Pub. L. 91–278, § 1(14), June 12, 1970, 84 Stat. 306; amended Pub. L. 93–430, § 5, Oct. 1, 1974, 88 Stat. 1182.)

REFERENCES IN TEXT

Act of September 30, 1950, referred to in subsec. (a), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, known as the Educational Agencies Financial Aid Act, which was classified generally to chapter 13 (§ 236 et seq.) of Title 20, Education, prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965.

AMENDMENTS

1974—Pub. L. 93–430 struck out ''; transportation of'' after ''children'' in section catchline, designated existing provisions as subsec. (b), and added subsec. (a).

§ 658. Confidential investigative expenses

Not more than $45,000 each fiscal year appropriated for necessary expenses for the operation of the Coast Guard shall be available for investigative expenses of a confidential character, to be expended on the approval or authority of the Commandant and payment to be made on his certificate of necessity for confidential purposes, and his determination shall be final and conclusive upon the accounting officers of the Government.

(Added Pub. L. 93–283, § 1(10), May 14, 1974, 88 Stat. 140; amended Pub. L. 108–293, title II, § 221, Aug. 9, 2004, 118 Stat. 1040.)

AMENDMENTS

2004—Pub. L. 108–293 substituted ''$45,000 each fiscal year'' for ''$15,000 per annum''.

§ 659. Assistance to film producers

(a) Notwithstanding any other provision of law, when the Secretary determines that it is appropriate, and that it will not interfere with Coast Guard missions, the Secretary may conduct operations with Coast Guard vessels, aircraft, facilities, or personnel, in such a way as to give assistance to film producers. As used in this section, ''film producers'' includes commercial or noncommercial producers of material for cinema, television, or videotape.

(b) The Secretary shall keep account of costs incurred as a result of providing assistance to film producers, not including costs which would otherwise be incurred in Coast Guard operations or training, or shall estimate such costs in advance, and such costs shall be paid to the Secretary by the film producers who request such assistance, on terms determined by the Secretary. The Secretary may waive costs not exceeding $200 for one production, and may waive other costs related to noncommercial productions which the Secretary determines to be in the public interest. The Secretary shall reimburse the amounts collected under this section to the Coast Guard appropriation account under which the costs were incurred.

(Added Pub. L. 100–448, § 29(a), Sept. 28, 1988, 102 Stat. 1849.)

PRIOR PROVISIONS

A prior section 659, added Pub. L. 95–61, § 4(1), July 1, 1977, 91 Stat. 259; amended Pub. L. 97–258, § 3(d), Sept. 13, 1982, 96 Stat. 1064, directed the merger of obligated balances with current appropriations, prior to repeal by Pub. L. 97–295, § 2(19)(A), Oct. 12, 1982, 96 Stat. 1302.

§ 660. Transportation to and from certain places of employment

(a) Whenever the Secretary determines that it is necessary for the effective conduct of the affairs of the Coast Guard, he may, at reasonable rates of fare fixed under regulations to be prescribed by him, provide assured and adequate transportation by motor vehicle or water carrier to and from their places of employment for persons attached to, or employed by, the Coast Guard; and during a war or during a national emergency declared by Congress or the President, for persons attached to, or employed in, a private plant that is manufacturing material for the Coast Guard.

(b) Transportation may not be provided under subsection (a) unless the Secretary or an officer designated by the Secretary, determines that—

(1) other transportation facilities are inadequate and cannot be made adequate;

(2) a reasonable effort has been made to induce operators of private facilities to provide the necessary transportation; and

(3) the service to be furnished will make proper use of transportation facilities and will supply the most efficient transportation to the persons concerned.

(c) To provide transportation under subsection (a), the Secretary may—

(1) buy, lease, or charter motor vehicles or water carriers having a seating capacity of 12 or more passengers;

(2) maintain and operate that equipment by enlisted members or employees of the Coast Guard, or by private persons under contract; and

(3) lease or charter the equipment to private or public carriers for operation under terms that are considered necessary by the Secretary or by an officer designated by the Secretary, and that may provide for the pooling of government-owned and privately owned equipment and facilities and for the reciprocal use of that equipment.

(d) Fares received under subsection (a), and proceeds of the leasing or chartering of equipment under subsection (c)(3), shall be covered into the Treasury as miscellaneous receipts.

(Added Pub. L. 96–376, § 10(a), Oct. 3, 1980, 94 Stat. 1510; amended Pub. L. 99–145, title XVI, § 1623, Nov. 8, 1985, 99 Stat. 778; Pub. L. 99–550, § 2(e), Oct. 27, 1986, 100 Stat. 3070.)

AMENDMENTS

1986—Subsec. (e). Pub. L. 99–550 struck out subsec. (e) which provided that passenger motor vehicles of the

United States could be used to provide transportation between the residence and place of work of the Commandant. See section 1344 of Title 31, Money and Finance.

1985—Subsec. (e). Pub. L. 99–145 added subsec. (e).

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1623 of Pub. L. 99–145 provided that the amendment made by that section is effective Oct. 1, 1985.

§ 661. Authorization of personnel end strengths

(a) For each fiscal year, Congress shall authorize the strength for active duty personnel of the Coast Guard as of the end of that fiscal year. Amounts may be appropriated for a fiscal year to or for the use of active duty personnel of the Coast Guard only if the end strength for active duty personnel for that fiscal year has been authorized by law. If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard, for a period not to exceed 6 months after the end of the war or termination of the national emergency.

(b)(1) Congress shall authorize the average military training student loads for the Coast Guard for each fiscal year. That authorization is required for student loads for the following individual training categories:

(A) Recruit and specialized training.

(B) Flight training.

(C) Professional training in military and civilian institutions.

(D) Officer acquisition training.

(2) Amounts may be appropriated for a fiscal year for use in training military personnel of the Coast Guard in the categories referred to in paragraph (1) only if the average student loads for the Coast Guard for that fiscal year have been authorized by law.

(Added Pub. L. 97–295, § 2(20)(A), Oct. 12, 1982, 96 Stat. 1302; amended Pub. L. 107–295, title I, § 105(a), Nov. 25, 2002, 116 Stat. 2085.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
661	14:ch. 11(note).	Sept. 10, 1976, Pub. L. 94–406, § 6, 90 Stat. 1236.

The words ''after fiscal year 1977'' are omitted as executed. The word ''Amounts'' is substituted for ''funds'' for clarity and consistency.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–295 inserted at end ''If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard, for a period not to exceed 6 months after the end of the war or termination of the national emergency.''

§ 662. Requirement for prior authorization of appropriations

Amounts may be appropriated to or for the use of the Coast Guard for the following matters only if the amounts have been authorized by law after December 31, 1976:

(1) For the operation and maintenance of the Coast Guard.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore or offshore establishments, vessels, or aircraft, including equipment related to the aids, establishments, vessels, or aircraft.

(3) For altering obstructive bridges.

(4) For research, development, test, or evaluation related to a matter referred to in clauses (1)–(3).

(5) For environmental compliance and restoration at Coast Guard facilities.

(Added Pub. L. 97–295, § 2(20)(A), Oct. 12, 1982, 96 Stat. 1303; amended Pub. L. 101–225, title II, § 222(c), Dec. 12, 1989, 103 Stat. 1919.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
662	14:656(note).	Sept. 10, 1976, Pub. L. 94–406, § 5, 90 Stat. 1236.

The word ''Amounts'' is substituted for ''funds'' for clarity and consistency. Before clause (1), the words ''After fiscal year 1977'' are omitted as executed. The words ''of such funds'' are omitted as unnecessary. In clause (2), the words ''aids, establishments, vessels, or aircraft'' are substituted for ''thereto'' for clarity. In clause (4), the words ''a matter referred to in clauses (1)–(3)'' are substituted for ''any of the above'' for clarity.

AMENDMENTS

1989—Par. (5). Pub. L. 101–225 added par. (5).

§ 663. Submission of plans to Congress

The President shall submit to Congress with each budget request for the Coast Guard the current copy of the Coast Guard's Capital Investment Plan, Cutter Plan, Aviation Plan, Shore Facilities Plan, and Information Resources Management Plan. Not later than 30 days after the date on which the President submits to the Congress a budget under section 1105 of title 31 which includes a proposed 2-year budget for the Coast Guard, the Secretary shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, and to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives, detailed Coast Guard budget estimates for the fiscal years covered by such proposed 2-year budget.

(Added Pub. L. 97–295, § 2(20)(A), Oct. 12, 1982, 96 Stat. 1303; amended Pub. L. 100–448, § 25, Sept. 28, 1988, 102 Stat. 1847; Pub. L. 101–595, title III, § 311(c), Nov. 16, 1990, 104 Stat. 2987; Pub. L. 107–295, title IV, § 408(a)(2), Nov. 25, 2002, 116 Stat. 2117.)

HISTORICAL AND REVISION NOTES

Revised Section	*Source (U.S. Code)*	*Source (Statutes at Large)*
663	14:656(note).	Oct. 3, 1980, Pub. L. 96–376, § 12, 94 Stat. 1511.

The words ''with the fiscal year 1982 budget request'' and ''subsequent'' are omitted as executed.

AMENDMENTS

2002—Pub. L. 107–295 substituted ''Transportation and Infrastructure'' for ''Merchant Marine and Fisheries''.

1990—Pub. L. 101–595 substituted ''Shore Facilities Plan, and Information Resources Management Plan.'' for ''and Shore Facilities Plan.''

1988—Pub. L. 100–448 inserted at end ''Not later than 30 days after the date on which the President submits to the Congress a budget under section 1105 of title 31 which includes a proposed 2-year budget for the Coast Guard, the Secretary shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives, detailed Coast Guard budget estimates for the fiscal years covered by such proposed 2-year budget.''

DEEPWATER REPORTS

Pub. L. 109–241, title IV, § 408, July 11, 2006, 120 Stat. 537, provided that:

''(a) ANNUAL DEEPWATER IMPLEMENTATION REPORT.—Not later than 30 days after the date of enactment of this Act [July 11, 2006] and in conjunction with the transmittal by the President of the budget of the United States for each fiscal year thereafter, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the implementation of the Integrated Deepwater Systems Program, as revised in 2005 (in this section referred to as the 'Deepwater program'), that includes—

''(1) a justification for how the projected number and capabilities of each Deepwater program asset meets the revised mission needs statement delivered as part of the Deepwater program and the performance goals of the Coast Guard;

''(2) a projection of the remaining operational lifespan of each legacy asset;

''(3) an identification of any changes to the Deepwater program, including—

''(A) any changes to the timeline for the acquisition of each new asset and the phase out of legacy assets for the life of the Deepwater program; and

''(B) any changes to the costs for that fiscal year or future fiscal years or the total costs of the Deepwater program, including the costs of new and legacy assets;

''(4) a justification for how any change to the Deepwater program fulfills the mission needs statement for the Deepwater program and performance goals of the Coast Guard;

''(5) an identification of how funds in that fiscal year's budget request will be allocated, including information on the purchase of specific assets;

''(6) a detailed explanation of how the costs of the legacy assets are being accounted for within the Deepwater program;

''(7) a description of how the Coast Guard is planning for the integration of Deepwater program assets into the Coast Guard, including needs related to shore-based infrastructure and human resources; and

''(8) a description of the competitive process conducted in all contracts and subcontracts exceeding $2,500,000 awarded under the Deepwater program.

''(b) DEEPWATER ACCELERATION REPORT.—Not later than 30 days after the date of enactment of this Act [July 11, 2006], the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the acceleration of the current Deepwater program acquisition timeline that reflects completion of the Deepwater program in each of 10 years and 15 years and includes—

''(1) a detailed explanation of the number and type of each asset that would be procured for each fiscal year under each accelerated acquisition timeline;

''(2) the required funding for such completion under each accelerated acquisition timeline;

''(3) anticipated costs associated with legacy asset sustainment for the Deepwater program under each accelerated acquisition timeline;

''(4) anticipated mission deficiencies, if any, associated with the continued degradation of legacy assets in combination with the procurement of new assets under each accelerated acquisition timeline; and

''(5) an evaluation of the overall feasibility of achieving each accelerated acquisition timeline, including—

''(A) contractor capacity;

''(B) national shipbuilding capacity;

''(C) asset integration into Coast Guard facilities;

''(D) required personnel; and

''(E) training infrastructure capacity on technology associated with new assets.

''(c) OVERSIGHT REPORT.—Not later than 90 days after the date of enactment of this Act [July 11, 2006], the Commandant of the Coast Guard, in consultation with the Government Accountability Office, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of the Coast Guard's implementation of the Government Accountability Office's recommendations in its report, GAO–04–380, entitled 'Coast Guard Deepwater Program Needs Increased Attention to Management and Contractor Oversight', including the dates by which the Coast Guard plans to complete implementation of such recommendations if any of such recommendations remain open as of the date the report is transmitted to the Committees.

''(d) INDEPENDENT ANALYSIS OF REVISED DEEPWATER PLAN.—The Secretary may periodically, either through an internal review process or a contract with an outside entity, conduct an analysis of all or part of the Deepwater program and assess whether—

''(1) the choice of assets and capabilities selected as part of that program meets the Coast Guard's goals for performance and minimizing total ownership costs; or

''(2) additional or different assets should be considered as part of that program.''

REVISED DEEPWATER IMPLEMENTATION PLAN

Pub. L. 110–161, div. E, title II, Dec. 26, 2007, 121 Stat. 2056, provided in part: ''That the Secretary [of Homeland Security] shall submit to the Committees on Appropriations of the Senate and the House of Representatives a comprehensive review of the Revised Deepwater Implementation Plan every five years, beginning in fiscal year 2011, that includes a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027''.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 109–295, title II, Oct. 4, 2006, 120 Stat. 1365.

Pub. L. 109–90, title II, Oct. 18, 2005, 119 Stat. 2072.

FUTURE-YEARS CAPITAL INVESTMENT PLAN

Pub. L. 110–161, div. E, title II, Dec. 26, 2007, 121 Stat. 2056, provided in part: ''That the Secretary [of Homeland Security] shall annually submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, United States Code, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

''(1) the proposed appropriation included in that budget;

''(2) the total estimated cost of completion;

''(3) projected funding levels for each fiscal year for the next five fiscal years or until project completion, whichever is earlier;

''(4) an estimated completion date at the projected funding levels; and

''(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committees on Appropriations of the Senate and the House of Representatives:

Provided further, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31, United States Code, for that fiscal year: *Provided further*, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified''.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 109–295, title II, Oct. 4, 2006, 120 Stat. 1365.
Pub. L. 109–90, title II, Oct. 18, 2005, 119 Stat. 2072.
Pub. L. 108–334, title II, Oct. 18, 2004, 118 Stat. 1306.

UNFUNDED PRIORITIES

Pub. L. 108–334, title V, § 514, Oct. 18, 2004, 118 Stat. 1317, provided that: ''The Commandant of the Coast Guard shall provide to the Congress each year, at the time that the President's budget is submitted under section 1105(a) of title 31, United States Code, a list of approved but unfunded Coast Guard priorities and the funds needed for each such priority in the same manner and with the same contents as the unfunded priorities lists submitted by the chiefs of other Armed Services.''

STATUS REPORTS ON POLAR ICEBREAKING VESSELS

Pub. L. 99–640, § 15, Nov. 10, 1986, 100 Stat. 3552, provided that: ''The Secretary of the department in which the Coast Guard is operating shall provide detailed reports to Congress concerning the status of design and construction plans for the procurement of at least two new polar icebreaking vessels. Such reports shall be included in the Cutter Plan required annually by section 663 of title 14, United States Code, and shall be submitted each year until at least two new polar icebreaking vessels have been delivered to the Coast Guard.''

§ 664. User fees

(a) A fee or charge for a service or thing of value provided by the Coast Guard shall be prescribed as provided in section 9701 of title 31.

(b) Amounts collected by the Secretary for a service or thing of value provided by the Coast Guard shall be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

(c) In addition to the collection of fees and charges established under this section, the Secretary may recover from the person liable for the fee or charge the costs of collecting delinquent payments of the fee or charge, and enforcement costs associated with delinquent payments of the fees and charges.

(d)(1) The Secretary may employ any Federal, State, or local agency or instrumentality, or any private enterprise or business, to collect a fee or charge established under this section.

(2) A private enterprise or business employed by the Secretary to collect fees or charges—

(A) shall be subject to reasonable terms and conditions agreed to by the Secretary and the enterprise or business;

(B) shall provide appropriate accounting to the Secretary; and

(C) may not institute litigation as part of that collection.

(e) The Secretary shall account for the agency's costs of collecting a fee or charge as a reimbursable expense, subject to the availability of appropriations, and the costs shall be credited to the account from which expended.

(f) Before January 1 of each year, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that includes—

(1) a verification of each activity for which a fee or charge is collected under any law stating—

(A) the amount collected in the prior fiscal year; and

(B) that the amount spent on that activity in that fiscal year is not less than the amount collected; and

(2) the amount expected to be collected under any law in the current fiscal year for each activity for which a fee or charge is expected to be collected.

(g) In this section the term ''costs of collecting a fee or charge'' includes the reasonable administrative, accounting, personnel, contract, equipment, supply, training, and travel expenses of calculating, assessing, collecting, enforcing, reviewing, adjusting, and reporting on a fee or charge.

(Added Pub. L. 99–509, title V, § 5102(a)(3), Oct. 21, 1986, 100 Stat. 1926; amended Pub. L. 101–225, title II, § 211, Dec. 12, 1989, 103 Stat. 1914; Pub. L. 107–295, title IV, § 408(a)(3), Nov. 25, 2002, 116 Stat. 2117; Pub. L. 108–293, title II, § 206, Aug. 9, 2004, 118 Stat. 1033.)

AMENDMENTS

2004—Subsecs. (c) to (g). Pub. L. 108–293 added subsecs. (c) to (e) and (g) and redesignated former subsec. (c) as (f).

2002—Subsec. (c). Pub. L. 107–295 substituted ''Transportation and Infrastructure'' for ''Merchant Marine and Fisheries'' in introductory provisions.

1989—Subsec. (c). Pub. L. 101–225 inserted ''under any law'' after first reference to ''collected'' in pars. (1) and (2).

§ 665. Restriction on construction of vessels in foreign shipyards

(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed in a foreign shipyard.

(b) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.

(Added Pub. L. 100–448, § 26(a), Sept. 28, 1988, 102 Stat. 1847.)

§ 666. Local hire

(a) Notwithstanding any other law, each contract awarded by the Coast Guard for construction or services to be performed in whole or in part in a State that has an unemployment rate

in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The Secretary of Homeland Security may waive the requirements of this subsection in the interest of national security or economic efficiency.

(b) LOCAL RESIDENT DEFINED.—As used in this section, ''local resident'' means a resident of, or an individual who commutes daily to, a State described in subsection (a).

(Added Pub. L. 101–225, title II, § 206(a), Dec. 12, 1989, 103 Stat. 1912; amended Pub. L. 107–296, title XVII, § 1704(a), Nov. 25, 2002, 116 Stat. 2314.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

§ 667. Vessel construction bonding requirements

The Secretary or the Commandant may require bid, payment, performance, payment and performance, or completion bonds or other financial instruments from contractors for construction, alteration, repair, or maintenance of Coast Guard vessels if—

(1) the bond is required by law; or

(2) the Secretary or Commandant determines after investigation that the amount of the bond in excess of 20 percent of the value of the base contract quantity excluding options, would not prevent a responsible bidder or offeror from competing for award of the contract.

(Added Pub. L. 101–595, title III, § 306(a), Nov. 16, 1990, 104 Stat. 2985.)

§ 668. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care

(a) The Secretary may contract for the delivery of health care to which covered beneficiaries are entitled under chapter 55 of title 10. The Secretary may enter into a contract under this section with any of the following:

(1) Health maintenance organizations.

(2) Preferred provider organizations.

(3) Individual providers, individual medical facilities, or insurers.

(4) Consortiums of these providers, facilities, or insurers.

(b) A contract entered into under this section may provide for the delivery of—

(1) selected health care services;

(2) total health care services for selected covered beneficiaries; or

(3) total health care services for all covered beneficiaries who reside in a geographic area designated by the Secretary.

(c) The Secretary may prescribe a premium, deductible, copayment, or other change for health care provided under this section.

(Added Pub. L. 101–595, title III, § 319(a), Nov. 16, 1990, 104 Stat. 2989.)

§ 669. Telephone installation and charges

Under regulations prescribed by the Secretary, amounts appropriated to the Department of Homeland Security are available to install, repair, and maintain telephone wiring in residences owned or leased by the United States Government and, if necessary for national defense purposes in other private residences.

(Added Pub. L. 102–587, title V, § 5204(a), Nov. 4, 1992, 106 Stat. 5074; amended Pub. L. 107–296, title XVII, § 1704(a), Nov. 25, 2002, 116 Stat. 2314.)

AMENDMENTS

2002—Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

§ 670. Procurement authority for family housing

(a) The Secretary is authorized—

(1) to acquire, subject to the availability of appropriations sufficient to cover its full obligations, real property or interests therein by purchase, lease for a term not to exceed 5 years, or otherwise, for use as Coast Guard family housing units, including the acquisition of condominium units, which may include the obligation to pay maintenance, repair, and other condominium-related fees; and

(2) to dispose of by sale, lease, or otherwise, any real property or interest therein used for Coast Guard family housing units for adequate consideration.

(b)(1) For the purposes of this section, a multiyear contract is a contract to lease Coast Guard family housing units for at least one, but not more than 5, fiscal years.

(2) The Secretary may enter into multiyear contracts under subsection (a) of this section whenever the Coast Guard finds that—

(A) the use of a contract will promote the efficiency of the Coast Guard family housing program and will result in reduced total costs under the contract; and

(B) there are realistic estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract.

(3) A multiyear contract authorized under subsection (a) of this section shall contain cancellation and termination provisions to the extent necessary to protect the best interests of the United States, and may include consideration of both recurring and nonrecurring costs. The contract may provide for a cancellation payment to be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.

(Added Pub. L. 103–206, title III, § 302(a), Dec. 20, 1993, 107 Stat. 2423.)

§ 671. Air Station Cape Cod Improvements

The Secretary may expend funds for the repair, improvement, restoration, or replacement of those federally or nonfederally owned support buildings, including appurtenances, which are on leased or permitted real property constituting Coast Guard Air Station Cape Cod, located on Massachusetts Military Reservation, Cape Cod, Massachusetts.

(Added Pub. L. 103–206, title III, § 303(a), Dec. 20, 1993, 107 Stat. 2423.)

§ 672. Long-term lease of special purpose facilities

(a) The Secretary is authorized, subject to the availability of appropriations, to enter into lease agreements to acquire real property or interests therein for a term not to exceed 20 years, inclusive of any automatic renewal clauses, for special purpose facilities, including, aids to navigation (hereafter in this section referred to as ''ATON'') sites, vessel traffic service (hereafter in this section referred to as ''VTS'') sensor sites, or National Distress System (hereafter in this section referred to as ''NDS'') high level antenna sites. These lease agreements shall include cancellation and termination provisions to the extent necessary to protect the best interests of the United States. Cancellation payment provisions may include consideration of both recurring and nonrecurring costs associated with the real property interests under the contract. These lease agreements may provide for a cancellation payment to be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.

(b) For purposes of this section, the term ''special purpose facilities'' means any facilities used to carry out Coast Guard aviation, maritime, or navigation missions other than general purpose office and storage space facilities.

(c) In the case of ATON, VTS, or NDS sites, the Secretary may enter into multiyear lease agreements under subsection (a) of this section whenever the Secretary finds that—

(1) the use of such a lease agreement will promote the efficiency of the ATON, VTS, or NDS programs and will result in reduced total costs under the agreement;

(2) the minimum need for the real property or interest therein to be leased is expected to remain substantially unchanged during the contemplated lease period; and

(3) the estimates of both the cost of the lease and the anticipated cost avoidance through the use of a multiyear lease are realistic.

(Added Pub. L. 103–206, title III, § 304(a), Dec. 20, 1993, 107 Stat. 2424; amended Pub. L. 104–324, title VII, § 746(d), Oct. 19, 1996, 110 Stat. 3943; Pub. L. 108–293, title II, § 212(a), Aug. 9, 2004, 118 Stat. 1036.)

AMENDMENTS

2004—Pub. L. 108–293, § 212(a)(1), added section catchline and struck out former section catchline which read as follows: ''Long-term lease authority for navigation and communications systems sites''.

Subsec. (a). Pub. L. 108–293, § 212(a)(2), inserted ''special purpose facilities, including,'' after ''automatic renewal clauses, for''.

Subsecs. (b), (c). Pub. L. 108–293, § 212(a)(3), added subsec. (b), redesignated former subsec. (b) as (c), and substituted ''In the case of ATON, VTS, or NDS sites, the'' for ''The'' in introductory provisions.

1996—Pub. L. 104–324 added section catchline and struck out former section catchline.

§ 672a. Long-term lease authority for lighthouse property

(a) The Commandant of the Coast Guard may lease to non-Federal entities, including private individuals, lighthouse property under the administrative control of the Coast Guard for terms not to exceed 30 years. Consideration for the use and occupancy of lighthouse property leased under this section, and for the value of any utilities and services furnished to a lessee of such property by the Commandant, may consist, in whole or in part, of non-pecuniary remuneration including the improvement, alteration, restoration, rehabilitation, repair, and maintenance of the leased premises by the lessee. Section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b)[1] shall not apply to leases issued by the Commandant under this section.

(b) Amounts received from leases made under this section, less expenses incurred, shall be deposited in the Treasury.

(Added Pub. L. 107–295, title IV, § 417(a), Nov. 25, 2002, 116 Stat. 2122.)

REFERENCES IN TEXT

Section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b), referred to in subsec. (a), is section 321 of act June 30, 1932, ch. 314, title III, 47 Stat. 412, which was classified to section 303b of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as section 1302 of Title 40, Public Buildings, Property, and Works, by Pub. L. 107–217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304.

§ 673. Designation, powers, and accountability of deputy disbursing officials

(a)(1) Subject to paragraph (3), a disbursing official of the Coast Guard may designate a deputy disbursing official—

(A) to make payments as the agent of the disbursing official;

(B) to sign checks drawn on disbursing accounts of the Secretary of the Treasury; and

(C) to carry out other duties required under law.

(2) The penalties for misconduct that apply to a disbursing official apply to a deputy disbursing official designated under this subsection.

(3) A disbursing official may make a designation under paragraph (1) only with the approval of the Secretary of Homeland Security (when the Coast Guard is not operating as a service in the Navy).

(b)(1) If a disbursing official of the Coast Guard dies, becomes disabled, or is separated from office, a deputy disbursing official may continue the accounts and payments in the name of the former disbursing official until the last day of the second month after the month in

[1] See References in Text note below.

which the death, disability, or separation occurs. The accounts and payments shall be allowed, audited, and settled as provided by law. The Secretary of the Treasury shall honor checks signed in the name of the former disbursing official in the same way as if the former disbursing official had continued in office.

(2) The deputy disbursing official, and not the former disbursing official or the estate of the former disbursing official, is liable for the actions of the deputy disbursing official under this subsection.

(c)(1) Except as provided in paragraph (2), this section does not apply to the Coast Guard when section 2773 of title 10 applies to the Coast Guard by reason of the operation of the Coast Guard as a service in the Navy.

(2) A designation of a deputy disbursing official under subsection (a) that is made while the Coast Guard is not operating as a service in the Navy continues in effect for purposes of section 2773 of title 10 while the Coast Guard operates as a service in the Navy unless and until the designation is terminated by the disbursing official who made the designation or an official authorized to approve such a designation under subsection (a)(3) of such section.

(Added Pub. L. 104–201, div. A, title X, § 1009(a)(2)(A), Sept. 23, 1996, 110 Stat. 2634; amended Pub. L. 107–296, title XVII, § 1704(a), Nov. 25, 2002, 116 Stat. 2314.)

CODIFICATION

Another section 673 was renumbered section 674 of this title.

AMENDMENTS

2002—Subsec. (a)(3). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

§ 674. Small boat station rescue capability

The Secretary of Homeland Security shall ensure that each Coast Guard small boat station (including a seasonally operated station) maintains, within the area of responsibility for the station, at least 1 vessel that is fully capable of performing offshore rescue operations, taking into consideration prevailing weather, marine conditions, and depositional geologic features such as sand bars.

(Added Pub. L. 104–324, title III, § 309(a), Oct. 19, 1996, 110 Stat. 3919, § 673; renumbered § 674, Pub. L. 107–295, title IV, § 405(a)(1), Nov. 25, 2002, 116 Stat. 2115; amended Pub. L. 107–296, title XVII, § 1704(a), (f)(1), Nov. 25, 2002, 116 Stat. 2314, 2316.)

PRIOR PROVISIONS

A prior section 674 was renumbered section 675 of this title.

AMENDMENTS

2002—Pub. L. 107–296, § 1704(f)(1), which directed renumbering of the section 673 of this title that was added by Pub. L. 104–324, § 309(a), as section 673a of this title, could not be executed because of the prior amendment by Pub. L. 107–295, see below.

Pub. L. 107–296, § 1704(a), which directed amendment of section 673a of this title by substituting ''of Homeland Security'' for ''of Transportation'', was executed by making the substitution in this section, to reflect the probable intent of Congress.

Pub. L. 107–295 renumbered section 673 of this title, relating to small boat station rescue capability, as this section.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by section 1704(a) of Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

Amendment by section 1704(f)(1) of Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

§ 675. Small boat station closures

(a) CLOSURES.—The Secretary of Homeland Security may not close a Coast Guard multimission small boat station or subunit unless the Secretary—

(1) determines that—

(A) remaining search and rescue capabilities maintain the safety of the maritime public in the area of the station or subunit;

(B) regional or local prevailing weather and marine conditions, including water temperature or unusual tide and current conditions, do not require continued operation of the station or subunit; and

(C) Coast Guard search and rescue standards related to search and rescue response times are met; and

(2) provides an opportunity for public comment and for public meetings in the area of the station or subunit with regard to the decision to close the station or subunit.

(b) OPERATIONAL FLEXIBILITY.—The Secretary may implement any management efficiencies within the small boat station system, such as modifying the operational posture of units or reallocating resources as necessary to ensure the safety of the maritime public nationwide. No stations or subunits may be closed under this subsection except in accordance with subsection (a).

(Added Pub. L. 104–324, title III, § 309(a), Oct. 19, 1996, 110 Stat. 3919, § 674; renumbered § 675, Pub. L. 107–295, title IV, § 405(a)(1), Nov. 25, 2002, 116 Stat. 2115; amended Pub. L. 107–296, title XVII, § 1704(a), Nov. 25, 2002, 116 Stat. 2314.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–296, which directed amendment of section 674 of this title by substituting ''of Homeland Security'' for ''of Transportation'' in introductory provisions, was executed to this section, to reflect the probable intent of Congress and the renumbering of section 674 of this title as this section by Pub. L. 107–295, see below.

Pub. L. 107–295 renumbered section 674 of this title as this section.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L.

107–296, set out as a note under section 101 of Title 10, Armed Forces.

§ 676. Search and rescue center standards

(a) The Secretary shall establish, implement, and maintain the minimum standards necessary for the safe operation of all Coast Guard search and rescue center facilities, including with respect to the following:

(1) The lighting, acoustics, and temperature in the facilities.

(2) The number of individuals on a shift in the facility assigned search and rescue responsibilities (including communications), which may be adjusted based on seasonal workload.

(3) The length of time an individual may serve on watch to minimize fatigue, based on the best scientific information available.

(4) The scheduling of individuals having search and rescue responsibilities to minimize fatigue of the individual when on duty in the facility.

(5) The workload of each individual engaged in search and rescue responsibilities in the facility.

(6) Stress management for the individuals assigned search and rescue responsibilities in the facilities.

(7) The design of equipment and facilities to minimize fatigue and enhance search and rescue operations.

(8) The acquisition and maintenance of interim search and rescue command center communications equipment.

(9) Any other requirements that the Secretary believes will increase the safe operation of the search and rescue centers.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary should establish, implement, and maintain minimum standards necessary to ensure that an individual on duty or watch in a Coast Guard search and rescue command center facility does not work more than 12 hours in a 24-hour period, except in an emergency or unforeseen circumstances.

(c) DEFINITION.—For the purposes of this section, the term ''search and rescue center facility'' means a Coast Guard shore facility that maintains a search and rescue mission coordination and communications watch.

(d) REPORT TO CONGRESS.—The Secretary shall provide a quarterly written report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, describing the status of implementation of the standards described in subsection (b), including a list of the facilities at which such standards have or have not been implemented.

(Added Pub. L. 107–295, title IV, § 405(a)(2), Nov. 25, 2002, 116 Stat. 2115.)

PRESCRIPTION OF STANDARDS

Pub. L. 107–295, title IV, § 405(b), Nov. 25, 2002, 116 Stat. 2116, provided that: ''The Secretary shall prescribe the standards required under section 675(a) [676(a)] of title 14, United States Code, as enacted by subsection (a) of this section, before January 1, 2003.''

§ 677. Turnkey selection procedures

(a) AUTHORITY TO USE.—The Secretary may use one-step turnkey selection procedures for the purpose of entering into contracts for construction projects.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) The term ''one-step turnkey selection procedures'' means procedures used for the selection of a contractor on the basis of price and other evaluation criteria to perform, in accordance with the provisions of a firm fixed-price contract, both the design and construction of a facility using performance specifications supplied by the Secretary.

(2) The term ''construction'' includes the construction, procurement, development, conversion, or extension of any facility.

(3) The term ''facility'' means a building, structure, or other improvement to real property.

(Added Pub. L. 109–241, title II, § 205(a), July 11, 2006, 120 Stat. 521.)

CHAPTER 18—COAST GUARD HOUSING AUTHORITIES

Sec.
680. Definitions.
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AMENDMENTS

2004—Pub. L. 108–293, title II, § 207(f), Aug. 9, 2004, 118 Stat. 1035, substituted ''Direct loans and loan guarantees'' for ''Loan guarantees'' in item 682 and ''eligible'' for ''nongovernmental'' in item 684 and added item 687a.

§ 680. Definitions

In this chapter:

(1) The term ''construction'' means the construction of military housing units and ancillary supporting facilities or the improvement or rehabilitation of existing units or ancillary supporting facilities.

(2) The term ''contract'' includes any contract, lease, or other agreement entered into under the authority of this chapter.

(3) The term ''eligible entity'' means any private person, corporation, firm, partnership, or company and any State or local government or housing authority of a State or local government.

(4) The term ''military unaccompanied housing'' means military housing intended to be occupied by members of the armed forces serving a tour of duty unaccompanied by dependents.

(5) The term ''United States'' includes the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, and the District of Columbia.

(Added Pub. L. 104–324, title II, § 208(a), Oct. 19, 1996, 110 Stat. 3909; amended Pub. L. 108–293, title II, § 207(a), Aug. 9, 2004, 118 Stat. 1034.)

[1] So in original. Does not conform to section catchline.

AMENDMENTS

2004—Pars. (3) to (5). Pub. L. 108–293 added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

§ 681. General authority

(a) AUTHORITY.—In addition to any other authority providing for the acquisition or construction of military family housing or military unaccompanied housing, the Secretary may exercise any authority or any combination of authorities provided under this chapter in order to provide for the acquisition or construction by private persons, including a small business concern qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), of the following:

(1) Family housing units on or near Coast Guard installations within the United States and its territories and possessions.

(2) Unaccompanied housing units on or near such Coast Guard installations.

(b) LIMITATION ON APPROPRIATIONS.—No appropriation shall be made to acquire or construct military family housing or military unaccompanied housing under this chapter if that acquisition or construction has not been approved by resolutions adopted by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(Added Pub. L. 104–324, title II, § 208(a), Oct. 19, 1996, 110 Stat. 3909; amended Pub. L. 107–295, title IV, § 402(a), Nov. 25, 2002, 116 Stat. 2113.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–295 inserted ‘‘, including a small business concern qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a)),’’ after ‘‘private persons’’ in introductory provisions.

§ 682. Direct loans and loan guarantees

(a) DIRECT LOANS.—(1) Subject to subsection (c), the Secretary may make direct loans to an eligible entity in order to provide funds to the eligible entity for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

(2) The Secretary shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.

(b) LOAN GUARANTEES.—

(1) Subject to subsection (c), the Secretary may guarantee a loan made to any person in the private sector if the proceeds of the loan are to be used by the person to acquire, or construct housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

(2) The amount of a guarantee on a loan that may be provided under paragraph (1) may not exceed the amount equal to the lesser of—

(A) 80 percent of the value of the project; or

(B) the outstanding principal of the loan.

(3) The Secretary shall establish such terms and conditions with respect to guarantees of loans under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the rights and obligations of the United States with respect to such guarantees.

(4) The funds for the loan guarantees entered into under this section shall be held in the Coast Guard Housing Fund under section 687 of this title. The Secretary is authorized to purchase mortgage insurance to guarantee loans in lieu of guaranteeing loans directly against funds held in the Coast Guard Housing Fund.

(c) LIMITATION ON AUTHORITY.—Direct loans and loan guarantees may be made under this section only to the extent that appropriations of budget authority to cover their cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) are made in advance, or authority is otherwise provided in appropriations Acts. If such appropriation or other authority is provided, there may be established a financing account (as defined in section 502(7) of such Act (2 U.S.C. 661a(7))) which shall be available for the disbursement of payment of claims for payment on loan guarantees under this section and for all other cash flows to and from the Government as a result of guarantees made under this section.

(Added Pub. L. 104–324, title II, § 208(a), Oct. 19, 1996, 110 Stat. 3910; amended Pub. L. 108–293, title II, § 207(b), Aug. 9, 2004, 118 Stat. 1034.)

AMENDMENTS

2004—Pub. L. 108–293, § 207(b)(2)–(5), added subsec. (a), redesignated former subsecs. (a) and (b) as (b) and (c), respectively, substituted ‘‘subsection (c)’’ for ‘‘subsection (b)’’ in subsec. (b), and, in subsec. (c), struck out ‘‘Guarantee’’ before ‘‘Authority’’ in heading and substituted ‘‘Direct loans and loan guarantees’’ for ‘‘Loan guarantees’’ in text.

Pub. L. 108—293, § 207(b)(1), added section catchline and struck out former section catchline which read as follows: ‘‘Loan guarantees’’.

§ 683. Leasing of housing to be constructed

(a) BUILD AND LEASE AUTHORIZED.—The Secretary may enter into contracts for the lease of military family housing units or military unaccompanied housing units to be constructed under this chapter.

(b) LEASE TERMS.—A contract under this section may be for any period that the Secretary determines appropriate and may provide for the owner of the leased property to operate and maintain the property.

(Added Pub. L. 104–324, title II, § 208(a), Oct. 19, 1996, 110 Stat. 3910.)

§ 684. Limited partnerships with eligible entities

(a) LIMITED PARTNERSHIPS AUTHORIZED.—The Secretary may enter into limited partnerships with eligible entities carrying out projects for the acquisition or construction of housing units suitable for use as military family housing or as military unaccompanied housing.

(b) LIMITATION ON VALUE OF INVESTMENT IN LIMITED PARTNERSHIP.—(1) The cash amount of

an investment under this section in an eligible entity may not exceed an amount equal to 33⅓ percent of the capital cost (as determined by the Secretary) of the project or projects that the entity proposes to carry out under this section with the investment.

(2) If the Secretary conveys land or facilities to an eligible entity as all or part of an investment in the entity under this section, the total value of the investment by the Secretary under this section may not exceed an amount equal to 45 percent of the capital cost (as determined by the Secretary) of the project or projects that the entity proposes to carry out under this section with the investment.

(3) In this subsection, the term ''capital cost'', with respect to a project for the acquisition or construction of housing, means the total amount of the costs included in the basis of the housing for Federal income tax purposes.

(c) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary shall enter into collateral incentive agreements with eligible entities in which the Secretary makes an investment under this section to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the investment.

(Added Pub. L. 104–324, title II, § 208(a), Oct. 19, 1996, 110 Stat. 3911; amended Pub. L. 108–293, title II, § 207(c), Aug. 9, 2004, 118 Stat. 1034.)

AMENDMENTS

2004—Pub. L. 108–293 substituted ''eligible'' for ''nongovernmental'' and ''an eligible'' for ''a nongovernmental'' wherever appearing in section catchline and text.

§ 685. Conveyance or lease of existing property and facilities

(a) CONVEYANCE OR LEASE AUTHORIZED.—The Secretary may convey or lease property or facilities (including ancillary support facilities) to private persons for purposes of using the proceeds of such conveyance or lease to carry out activities under this chapter.

(b) TERMS AND CONDITIONS.—(1) The conveyance or lease of property or facilities under this section shall be for such consideration and upon such terms and conditions as the Secretary considers appropriate for the purposes of this chapter and to protect the interests of the United States.

(2) As part or all of the consideration for a conveyance or lease under this section, the purchaser or lessor (as the case may be) may enter into an agreement with the Secretary to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or sublease of a reasonable number of the housing units covered by the conveyance or lease, as the case may be, or in the lease of other suitable housing units made available by the purchaser or lessee.

(c) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.—The conveyance or lease of property or facilities under this section shall not be subject to the following provisions of law:

(1) Subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

(2) Section 1302 of title 40.

(3) The McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.).

(Added Pub. L. 104–324, title II, § 208(a), Oct. 19, 1996, 110 Stat. 3911; amended Pub. L. 106–400, § 2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 107–217, § 3(c)(4), Aug. 21, 2002, 116 Stat. 1299.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (c)(1), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title III of the Act is classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Tables.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (c)(3), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended, which is classified principally to chapter 119 (§ 11301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

AMENDMENTS

2002—Subsec. (c)(1). Pub. L. 107–217, § 3(c)(4)(A), substituted ''Subtitle I of title 40 and title III of the'' for ''The'' and ''(41 U.S.C. 251 et seq.)'' for ''(40 U.S.C. 471 et seq.)''.

Subsec. (c)(2). Pub. L. 107–217, § 3(c)(4)(B), substituted ''Section 1302 of title 40'' for ''Section 321 of the Act of June 30, 1932 (commonly known as the Economy Act) (47 Stat. 412, chapter 314; 40 U.S.C. 303b)''.

2000—Subsec. (c)(3). Pub. L. 106–400 substituted ''McKinney-Vento Homeless Assistance Act'' for ''Stewart B. McKinney Homeless Assistance Act''.

§ 686. Assignment of members of the armed forces to housing units

(a) IN GENERAL.—The Secretary may assign members of the armed forces to housing units acquired or constructed under this chapter.

(b) EFFECT OF CERTAIN ASSIGNMENTS ON ENTITLEMENT TO HOUSING ALLOWANCES.—(1) Except as provided in paragraph (2), housing referred to in subsection (a) shall be considered as quarters of the United States or a housing facility under the jurisdiction of a uniformed service for purposes of section 403(e) of title 37.

(2) A member of the armed forces who is assigned in accordance with subsection (a) to a housing unit not owned or leased by the United States shall be entitled to a basic allowance for housing under section 403 of title 37.

(c) LEASE PAYMENTS THROUGH PAY ALLOTMENTS.—The Secretary may require members of the armed forces who lease housing in housing units acquired or constructed under this chapter to make lease payments for such housing pursuant to allotments of the pay of such members under section 701 of title 37.

(Added Pub. L. 104–324, title II, § 208(a), Oct. 19, 1996, 110 Stat. 3912; amended Pub. L. 106–398, § 1 [[div. A], title X, § 1087(g)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A–293.)

AMENDMENTS

2000—Subsec. (b)(1). Pub. L. 106–398, § 1 [[div. A], title X, § 1087(g)(3)(A)], substituted ''section 403(e)'' for ''section 403(b)''.

Subsec. (b)(2). Pub. L. 106–398, § 1 [[div. A], title X, § 1087(g)(3)(B)], substituted ''a basic allowance for housing under section 403 of title 37'' for ''a basic allowance

for quarters under section 403 of title 37, and, if in a high housing cost area, a variable housing allowance under section 403a of that title''.

§ 687. Coast Guard Housing Fund

(a) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the Coast Guard Housing Fund (in this section referred to as the ''Fund'').

(b) CREDITS TO FUND.—There shall be credited to the Fund the following:

(1) Amounts authorized for and appropriated to that Fund.

(2) Subject to subsection (e), any amounts that the Secretary transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Homeland Security or Coast Guard for the acquisition or construction of military family housing or unaccompanied housing.

(3) Proceeds from the conveyance or lease of property or facilities under section 685 of this title for the purpose of carrying out activities under this chapter with respect to military family and military unaccompanied housing.

(4) Income from any activities under this chapter, including interest on loan guarantees made under section 682 of this title, income and gains realized from investments under section 684 of this title, and any return of capital invested as part of such investments.

(c) USE OF AMOUNTS IN FUND.—(1) In such amounts as provided in appropriation Acts and except as provided in subsection (d), the Secretary may use amounts in the Coast Guard Housing Fund to carry out activities under this chapter with respect to military family and military unaccompanied housing units, including activities required in connection with the planning, execution, and administration of contracts entered into under the authority of this chapter.

(2) Amounts made available under this subsection shall remain available until expended.

(d) LIMITATION ON OBLIGATIONS.—The Secretary may not incur an obligation under a contract or other agreements entered into under this chapter in excess of the unobligated balance, at the time the contract is entered into, of the Fund required to be used to satisfy the obligation.

(e) NOTIFICATION REQUIRED FOR TRANSFERS.—A transfer of appropriated amounts to the Fund under subsection (b)(2) or (b)(3) of this section may be made only after the end of a 30-day period beginning on the date the Secretary submits written notice of, and justification for, the transfer to the appropriate committees of Congress.

(f) LIMITATION ON AMOUNT OF BUDGET AUTHORITY.—The total value in budget authority of all contracts and investments undertaken using the authorities provided in this chapter shall not exceed $40,000,000.

(g) DEMONSTRATION PROJECTS AUTHORIZED.—To promote efficiencies through the use of alternative procedures for expediting new housing projects, the Secretary—

(1) may develop and implement demonstration projects for acquisition or construction of military family housing and military unaccompanied housing on or near the Coast Guard installation at Kodiak, Alaska, or any other Coast Guard installation in Alaska;

(2) in implementing such a demonstration project, shall utilize, to the maximum extent possible, the contracting authority of the Small Business Administration's section 8(a) program;

(3) shall, to the maximum extent possible, acquire or construct such housing through contracts with small business concerns qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) that have their principal place of business in the State of Alaska; and

(4) shall report to Congress by September 1 of each year on the progress of activities under such demonstration projects.

(Added Pub. L. 104–324, title II, § 208(a), Oct. 19, 1996, 110 Stat. 3912; amended Pub. L. 107–295, title IV, § 402(b), (c), Nov. 25, 2002, 116 Stat. 2114; Pub. L. 107–296, title XVII, § 1704(a), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–293, title II, § 207(d), Aug. 9, 2004, 118 Stat. 1034.)

AMENDMENTS

2004—Subsec. (g). Pub. L. 108–293, § 207(d)(1), substituted ''Projects'' for ''Project'' in heading.

Subsec. (g)(1). Pub. L. 108–293, § 207(2), (3), substituted ''demonstration projects'' for ''a demonstration project'' and ''Kodiak, Alaska, or any other Coast Guard installation in Alaska;'' for ''Kodiak, Alaska;''.

Subsec. (g)(2). Pub. L. 108–293, § 207(d)(4), substituted ''such a demonstration project'' for ''the demonstration project''.

Subsec. (g)(4). Pub. L. 108–293, § 207(d)(5), substituted ''such demonstration projects'' for ''the demonstration project''.

2002—Subsec. (b)(2). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

Subsec. (f). Pub. L. 107–295, § 402(b), substituted ''$40,000,000'' for ''$20,000,000''.

Subsec. (g). Pub. L. 107–295, § 402(c), added subsec. (g).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

§ 687a. Differential lease payments

Pursuant to an agreement entered into by the Secretary and a lessor of military family housing or military unaccompanied housing to members of the armed forces, the Secretary may pay the lessor an amount, in addition to the rental payments for the housing made by the members, as the Secretary determines appropriate to encourage the lessor to make the housing available to members of the armed forces as military family housing or as military unaccompanied housing.

(Added Pub. L. 108–293, title II, § 207(e), Aug. 9, 2004, 118 Stat. 1035.)

§ 688. Reports

The Secretary shall include each year in the materials the Secretary submits to the Congress in support of the budget submitted by the President pursuant to section 1105 of title 31, the following:

(1) A report on each contract or agreement for a project for the acquisition or construction of military family or military unaccompanied housing units that the Secretary proposes to solicit under this chapter, describing the project and the method of participation of the United States in the project and providing justification of such method of participation.

(2) A report describing each conveyance or lease proposed under section 685 of this title.

(3) A methodology for evaluating the extent and effectiveness of the use of the authorities under this chapter during such preceding fiscal year.

(4) A description of the objectives of the Department of Homeland Security for providing military family housing and military unaccompanied housing for members of the Coast Guard.

(Added Pub. L. 104–324, title II, § 208(a), Oct. 19, 1996, 110 Stat. 3913; amended Pub. L. 107–296, title XVII, § 1704(a), Nov. 25, 2002, 116 Stat. 2314.)

AMENDMENTS

2002—Par. (4). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

FINAL REPORT

Section 208(b) of Pub. L. 104–324 provided that: ''Not later than March 1, 2000, the Secretary of the department in which the Coast Guard is operating shall submit to the Congress a report on the use by the Secretary of the authorities provided by chapter 18 of title 14, United States Code, as added by subsection (a). The report shall assess the effectiveness of such authority in providing for the construction and improvement of military family housing and military unaccompanied housing.''

§ 689. Expiration of authority

The authority to enter into a transaction under this chapter shall expire October 1, 2007.

(Added Pub. L. 104–324, title II, § 208(a), Oct. 19, 1996, 110 Stat. 3913; amended Pub. L. 107–295, title IV, § 402(d), Nov. 25, 2002, 116 Stat. 2114.)

AMENDMENTS

2002—Pub. L. 107–295 substituted ''2007'' for ''2001''.

CHAPTER 19—ENVIRONMENTAL COMPLIANCE AND RESTORATION PROGRAM

Sec.
690. Definitions.
691. Environmental Compliance and Restoration Program.
692. Environmental Compliance and Restoration Account.
693. Annual Report to Congress.

§ 690. Definitions

For the purposes of this chapter—

(1) ''environment'', ''facility'', ''person'', ''release'', ''removal'', ''remedial'', and ''response'' have the same meaning they have in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601);

(2) ''hazardous substance'' has the same meaning it has in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601), except that it also includes the meaning given ''oil'' in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); and

(3) ''pollutant'' has the same meaning it has in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362).

(Added Pub. L. 101–225, title II, § 222(a), Dec. 12, 1989, 103 Stat. 1917.)

§ 691. Environmental Compliance and Restoration Program

(a) The Secretary shall carry out a program of environmental compliance and restoration at current and former Coast Guard facilities.

(b) Program goals include:

(1) Identifying, investigating, and cleaning up contamination from hazardous substances and pollutants.

(2) Correcting other environmental damage that poses an imminent and substantial danger to the public health or welfare or to the environment.

(3) Demolishing and removing unsafe buildings and structures, including buildings and structures at former Coast Guard facilities.

(4) Preventing contamination from hazardous substances and pollutants at current Coast Guard facilities.

(c)(1) The Secretary shall respond to releases of hazardous substances and pollutants—

(A) at each Coast Guard facility the United States owns, leases, or otherwise possesses;

(B) at each Coast Guard facility the United States owned, leased, or otherwise possessed when the actions leading to contamination from hazardous substances or pollutants occurred; and

(C) on each vessel the Coast Guard owns or operates.

(2) Paragraph (1) of this subsection does not apply to a removal or remedial action when a potentially responsible person responds under section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9622).

(3) The Secretary shall pay a fee or charge imposed by a state[1] authority for permit services for disposing of hazardous substances or pollutants from Coast Guard facilities to the same extent that nongovernmental entities are required to pay for permit services. This paragraph does not apply to a payment that is the responsibility of a lessee, contractor, or other private person.

(d) The Secretary may agree with another Federal agency for that agency to assist in carrying out the Secretary's responsibilities under this chapter. The Secretary may enter into contracts, cooperative agreements, and grant agreements with State and local governments to assist in carrying out the Secretary's responsibil-

[1] So in original. Probably should be capitalized.

ities under this chapter. Services that may be obtained under this subsection include identifying, investigating, and cleaning up off-site contamination that may have resulted from the release of a hazardous substance or pollutant at a Coast Guard facility.

(e) Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9619) applies to response action contractors that carry out response actions under this chapter. The Coast Guard shall indemnify response action contractors to the extent that adequate insurance is not generally available at a fair price at the time the contractor enters into the contract to cover the contractor's reasonable, potential, long-term liability.

(Added Pub. L. 101–225, title II, § 222(a), Dec. 12, 1989, 103 Stat. 1917.)

§ 692. Environmental Compliance and Restoration Account

(a) There is established for the Coast Guard an account known as the Coast Guard Environmental Compliance and Restoration Account. All sums appropriated to carry out the Coast Guard's environmental compliance and restoration functions under this chapter or another law shall be credited or transferred to the account and remain available until expended.

(b) Funds may be obligated or expended from the account to carry out the Coast Guard's environmental compliance and restoration functions under this chapter or another law.

(c) In proposing the budget for any fiscal year under section 1105 of title 31, United States Code, the President shall set forth separately the amount requested for the Coast Guard's environmental compliance and restoration activities under this chapter or another law.

(d) Amounts recovered under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9607) for the Secretary's response actions at current and former Coast Guard facilities shall be credited to the account.

(Added Pub. L. 101–225, title II, § 222(a), Dec. 12, 1989, 103 Stat. 1918.)

§ 693. Annual Report to Congress

(a) The Secretary shall submit to Congress a report each fiscal year describing the progress the Secretary has made during the preceding fiscal year in implementing this chapter.

(b) Each report shall include:

(1) A statement for each facility or vessel for which the Secretary is responsible under section 691(c) of this title where a release of a hazardous substance or pollutant has been identified.

(2) The status of response actions contemplated or undertaken at each facility.

(3) The specific cost estimates and budgetary proposals for response actions contemplated or undertaken at each facility.

(4) The total amount required to clean up contamination at all identified facilities.

(Added Pub. L. 101–225, title II, § 222(a), Dec. 12, 1989, 103 Stat. 1918.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 133 of House Document No. 103–7.

PART II—COAST GUARD RESERVE AND AUXILIARY

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AMENDMENTS

1986—Pub. L. 99–640, § 10(a)(2), Nov. 10, 1986, 100 Stat. 3549, substituted ''701'' for ''751'' in item for chapter 21.

1950—Act Aug. 3, 1950, ch. 536, § 34, 64 Stat. 408, substituted ''Sec.'' for ''Page''.

CHAPTER 21—COAST GUARD RESERVE

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[1] So in original. Does not conform to section catchline.

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AMENDMENTS

2002—Pub. L. 107–295, title IV, § 413(b), Nov. 25, 2002, 116 Stat. 2120, added item 709a.

2000—Pub. L. 106–398, § 1 [[div. A], title V, § 502(b)(2)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A–100, substituted ''Establishment of promotion zones under running mate system'' for ''Placement in promotion zone; consideration for promotion'' in item 731.

1985—Pub. L. 99–145, title V, § 514(c)(3)(B), Nov. 8, 1985, 99 Stat. 629, substituted ''rear admiral (lower half)'' for ''commodore'' in item 743.

1983—Pub. L. 97–417, § 2(17)(B), Jan. 4, 1983, 96 Stat. 2087, inserted ''and commodore'' after ''Rear admiral'' in item 743.

1982—Pub. L. 97–295, § 2(22), Oct. 12, 1982, 96 Stat. 1303, inserted ''previously removed from an active status'' in item 733.

1981—Pub. L. 97–136, § 6(c)(3), Dec. 29, 1981, 95 Stat. 1706, substituted ''Exclusiveness of service'' for ''Exemption from military training and draft; exclusiveness of service'' in item 711.

1980—Pub. L. 96–322, § 1, Aug. 4, 1980, 94 Stat. 1002, revised analysis generally by adding items 701 to 713 and 720 to 746, and by omitting items 751 to 765, undesignated center heading ''Commissioned Officers'' following item 765, and items 770 to 798.

1974—Pub. L. 93–283, § 1(14), May 14, 1974, 88 Stat. 141, added items 765 and 796 to 798.

1972—Pub. L. 92–479, § 2, Oct. 9, 1972, 86 Stat. 795, added item 764.

1962—Pub. L. 87–704, § 1(b), Sept. 27, 1962, 76 Stat. 633, added item 763.

Pub. L. 87–649, § 7(d), Sept. 7, 1962, 76 Stat. 495, substituted ''Benefits'' for ''Pay, allowances, and other benefits'' in item 755.

1960—Pub. L. 86–559, § 2(4), June 30, 1960, 74 Stat. 281, added item 787a.

1958—Pub. L. 85–861, § 5(3), Sept. 2, 1958, 72 Stat. 1555, added heading ''Commissioned Officers'' and items 770 to 795.

1956—Act Aug. 10, 1956, ch. 1041, §§ 15(b), 16(b), 70A Stat. 625, 626, added items 751a, 752a, 753a, 758a, and 759a.

SUBCHAPTER A

GENERAL

§ 701. Organization

The Coast Guard Reserve is a component of the Coast Guard. It shall be organized, administered, trained, and supplied under the direction of the Commandant.

(Added Pub. L. 96–322, § 1, Aug. 4, 1980, 94 Stat. 1003.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 751a of this title prior to the complete revision of this chapter by Pub. L. 96–322.

[2] So in original. Does not conform to section catchline.

WOMEN'S BRANCH OF THE COAST GUARD RESERVE

Pub. L. 93–174, § 3, Dec. 5, 1973, 87 Stat. 692, provided that: ''Effective upon enactment of this Act [Dec. 5, 1973], all members of the women's branch of the Coast Guard Reserve who were serving on active or inactive duty on the day before enactment shall become members of the Coast Guard Reserve without loss of grade, rate, date of rank, or other benefits earned by their prior service.''

§ 702. Authorized strength

(a) The President shall prescribe the authorized strength of the Coast Guard Reserve if not otherwise prescribed by law.

(b) Subject to the authorized strength of the Coast Guard Reserve, the Secretary shall determine, at least annually, the authorized strength in numbers in each grade necessary to provide for mobilization requirements. Without the consent of the member concerned, a member of the reserve may not be reduced in grade because of the Secretary's determination.

(Added Pub. L. 96–322, § 1, Aug. 4, 1980, 94 Stat. 1003.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 752a of this title prior to the complete revision of this chapter by Pub. L. 96–322.

COAST GUARD RESERVE COMPONENTS TRANSITION INITIATIVES

Pub. L. 103–160, title V, § 564(a), (b), Nov. 30, 1993, 107 Stat. 1669, 1670, provided that:

''(a) APPLICABILITY OF CERTAIN BENEFITS.—The Secretary of Transportation shall prescribe such regulations as necessary so as to apply to the members of the Coast Guard Reserve the provisions of subtitle B of title XLIV of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 106 Stat. 2712) [enacting section 1331a [now 12731a] of Title 10, Armed Forces, amending sections 1174a, 1175, and 2133 of Title 10 and section 3012 of Title 38, Veterans' Benefits, and enacting provisions set out as a note under section 12681 of Title 10], including the amendments made by those provisions. For purposes of the application of any of such provisions to the Coast Guard Reserve, any reference in those provisions to the Secretary of Defense or Secretary of a military department shall be treated as referring to the Secretary of Transportation.

''(b) REGULATIONS.—Regulations prescribed for the purposes of this section shall to the extent practicable be identical to the regulations prescribed by the Secretary of Defense under those provisions.''

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

§ 703. Coast Guard Reserve Boards

(a) The Secretary shall convene a Coast Guard Reserve Policy Board at least annually to consider, recommend, and report to the Secretary on reserve policy matters. At least one-half of the members of the Board shall be Reserve officers.

(b) The Secretary may convene any other Reserve Board the Secretary considers necessary.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1003.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 753a of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 704. Grades and ratings; military authority

The grades and ratings in the Reserve, including cadets but not grades above rear admiral, are those prescribed by law or regulation for the Coast Guard. A member of the Reserve on active duty or inactive-duty training has the same authority, rights, and privileges in the performance of that duty as a member of the Regular Coast Guard of corresponding grade or rating.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1003.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 754 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 705. Benefits

(a) A member of the Reserve on active duty, on inactive-duty training, or engaged in authorized travel to or from that duty, is entitled to the same benefits as a member of the Navy Reserve of corresponding grade, rating, and length of service. In determining length of service for the purpose of this section, there shall be included all service for which credit is given by law to members of the Regular Coast Guard.

(b) Chapter 13 of this title applies to a member of the Reserve under the same conditions and limitations as it applies to a member of the Regular Coast Guard.

(c) A member of the Reserve who suffers sickness, disease, disability, or death is entitled to the same benefits as prescribed by law for a member of the Navy Reserve who suffers sickness, disease, disability, or death under similar conditions.

(d) A member of the Reserve on active duty or when retired for disability is entitled to the benefits of section 253(a) of title 42. A member of the Reserve when on active duty (other than for training) or when retired for disability is entitled to the benefits of chapter 55 of title 10.

(e) A member of the Reserve, except an enlisted member retiring on the basis of years of active service, is entitled to the same retirement rights, benefits, and privileges as prescribed by law for a member of the Navy Reserve, and wherever a law confers authority upon the Secretary of the Navy, similar authority is given to the Secretary to be exercised with respect to the Coast Guard when the Coast Guard is not operating as a service in the Navy. An enlisted member of the Reserve who retires on the basis of years of active service is entitled to the same retirement rights, benefits, and privileges as prescribed by law for an enlisted member of the Regular Coast Guard.

(f) A member of the Coast Guard Reserve not on active duty who is enrolled in an officer candidate program authorized by section 12209 of title 10 leading to a commission in the Coast Guard Reserve, and is a full-time student in an accredited college curriculum leading to a bachelor's degree may be paid a subsistence allowance for each month of the member's academic year at the same rate as that prescribed by section 209(a) of title 37.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1003; amended Pub. L. 97–417, §1, Jan. 4, 1983, 96 Stat. 2085; Pub. L. 104–106, div. A, title XV, §1501(e)(1)(A), Feb. 10, 1996, 110 Stat. 501; Pub. L. 109–163, div. A, title V, §515(c), Jan. 6, 2006, 119 Stat. 3235.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 755 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

AMENDMENTS

2006—Subsecs. (a), (c), (e). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

1996—Subsec. (f). Pub. L. 104–106 substituted ''12209 of title 10'' for ''600 of title 10''.

1983—Subsec. (f). Pub. L. 97–417 added subsec. (f).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of Title 10, Armed Forces.

§ 706. Temporary members of the Reserve; eligibility and compensation

A citizen of the United States, its territories, or possessions who is a member of the Auxiliary, an officer or member of the crew of a motorboat or yacht placed at the disposal of the Coast Guard, or a person (including a Government employee without pay other than the compensation of that person's civilian position) who by reason of special training and experience is considered by the Commandant to be qualified for duty, may be enrolled by the Commandant as a temporary member of the Reserve, for duty under conditions the Commandant may prescribe, including part-time and intermittent active duty with or without pay, without regard to age. The Commandant is authorized to define the powers and duties of temporary members of the Reserve, and to confer upon them, appropriate to their qualifications and experience, the same grades and ratings as provided for members of the Reserve. When performing active duty with pay as authorized by this section, temporary members of the reserve are entitled to receive the pay and allowances of their rank, grade, or rating.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1004.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 756 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 707. Temporary members of the Reserve; disability or death benefits

(a) If a temporary member of the Reserve is physically injured, or dies as a result of physical injury, and the injury is incurred incident to service while performing active duty, or engaged

in authorized travel to or from that duty, the law authorizing compensation for employees of the United States suffering injuries while in the performance of their duties, applies, subject to this section. That law shall be administered by the Secretary of Labor to the same extent as if the member was a civil employee of the United States and was injured in the performance of that duty. For benefit computation, regardless of pay or pay status, the member is considered to have had monthly pay of the monthly equivalent of the minimum rate of basic pay in effect for grade GS–9 of the General Schedule on the date the injury is incurred.

(b) This section does not apply if the workmen's compensation law of a State, a territory, or another jurisdiction provides coverage because of a concurrent employment status of the temporary member. When the temporary member or a dependent is entitled to a benefit under this section and also to a concurrent benefit from the United States on account of the same disability or death, the temporary member or dependent, as appropriate, shall elect which benefit to receive.

(c) If a claim is filed under this section with the Secretary of Labor for benefits because of an alleged injury or death, the Secretary of Labor shall notify the Commandant who shall direct an investigation into the facts surrounding the alleged injury or death. The Commandant shall then certify to the Secretary of Labor whether or not the injured or deceased person was a temporary member of the Reserve, the person's military status, and whether or not the injury or death was incurred incident to military service.

(d) A temporary member of the Reserve, who incurs a physical disability or contracts sickness or disease while performing a duty to which the member has been assigned by competent authority, is entitled to the same hospital treatment afforded a member of the Regular Coast Guard.

(e) In administering section 8133 of title 5, for a person covered by this section—

(1) the percentages applicable to payments under that section are—

(A) 45 percent under subsection (a)(2) of that section, where the member died fully or currently insured under title II of the Social Security Act (42 U.S.C. 401 et seq.), with no additional payments for a child or children so long as the widow or widower remains eligible for payments under that subsection;

(B) 20 percent under subsection (a)(3) of that section, for one child, and 10 percent additional for each additional child, not to exceed a total of 75 percent, where the member died fully or currently insured under title II of the Social Security Act; and

(C) 25 percent under subsection (a)(4) of that section, if one parent was wholly dependent for support upon the deceased member at the time of the member's death and the other was not dependent to any extent; 16 percent to each if both were wholly dependent; and if one was, or both were, partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

(2) payments may not be made under subsection (a)(5) of that section; and

(3) the Secretary of Labor shall inform the Commissioner of Social Security whenever a claim is filed and eligibility for compensation is established under subsection (a)(2) or (a)(3) of section 8133 of title 5. The Commissioner of Social Security shall then certify to the Secretary of Labor whether or not the member concerned was fully or currently insured under title II of the Social Security Act at the time of the member's death.

(Added Pub. L. 96–322, § 1, Aug. 4, 1980, 94 Stat. 1004; amended Pub. L. 97–136, § 8(a), Dec. 29, 1981, 95 Stat. 1706; Pub. L. 97–295, § 2(21), Oct. 12, 1982, 96 Stat. 1303; Pub. L. 103–296, title I, § 108(g), Aug. 15, 1994, 108 Stat. 1487.)

REFERENCES IN TEXT

The law authorizing compensation for employees of the United States, referred to in subsec. (a), appears in subchapter I (§ 8101 et seq.) of chapter 81 of Title 5, Government Organization and Employees.

The General Schedule, referred to in subsec. (a), is set out under section 5332 of Title 5.

The Social Security Act, referred to in subsec. (e)(1)(A), (B), (3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 760 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

AMENDMENTS

1994—Subsec. (e)(3). Pub. L. 103–296 substituted ''Commissioner of Social Security'' for ''Secretary of Health and Human Services'' in two places.

1982—Subsec. (e)(1). Pub. L. 97–295, § 2(21)(A), substituted ''percent'' for ''per centum'' wherever appearing.

Subsec. (e)(1)(A). Pub. L. 97–295, § 2(21)(B), inserted ''(42 U.S.C. 401 et seq.)'' after ''Social Security Act''.

1981—Subsec. (a). Pub. L. 97–136 substituted ''monthly pay of the monthly equivalent of the minimum rate of basic pay in effect for grade GS–9 of the General Schedule on the date the injury is incurred'' for ''monthly pay of $600''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 8(b) of Pub. L. 97–136 provided that: ''The amendment made by subsection (a) [amending this section] shall apply only with respect to payments for benefits under section 707(a) of title 14, United States Code, for months beginning on or after the date of the enactment of this Act [Dec. 29, 1981].''

§ 708. Temporary members of the Reserve; certificate of honorable service

In recognition of the service of temporary members of the Reserve, the Secretary may upon request issue an appropriate certificate of honorable service in lieu of a certificate of disenrollment issued to any person following disenrollment under honorable conditions from service as a temporary member. Issuance of a certificate of honorable service to any person

under this section does not entitle that person to any rights, privileges, or benefits under any law of the United States.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1005.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 763 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 709. Reserve student aviation pilots; Reserve aviation pilots; appointments in commissioned grade

(a) Under regulations prescribed by the Secretary an enlisted member of the Reserve may be designated as a student aviation pilot.

(b) A member who is not a qualified aviator may not be designated as a student aviation pilot unless the member agrees in writing to serve on active duty for a period of two years after successful completion of flight training, unless sooner released. A student aviation pilot may be released from active duty or discharged at any time as provided for in the regulations prescribed by the Secretary.

(c) A student aviation pilot who is a qualified civilian aviator may be given a brief refresher course in flight training.

(d) A student aviation pilot undergoing flight training is entitled to have uniforms and equipment provided at Government expense.

(e) Under regulations prescribed by the Secretary, a student aviation pilot may be designated an aviation pilot upon the successful completion of flight training.

(f) In time of peace, an aviation pilot obligated under subsection (b) to serve on active duty for two years may serve for an additional period of not more than two years.

(g) An aviation pilot may be released from active duty or discharged at any time as provided for in the regulations prescribed by the Secretary.

(h) If qualified under regulations prescribed by the Secretary, an aviation pilot may be appointed as an ensign in the Reserve.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1005.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 758a of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 709a. Reserve student pre-commissioning assistance program

(a) The Secretary may provide financial assistance to an eligible enlisted member of the Coast Guard Reserve, not on active duty, for expenses of the member while the member is pursuing on a full-time basis at an institution of higher education a program of education approved by the Secretary that leads to—

(1) a baccalaureate degree in not more than 5 academic years; or

(2) a post-baccalaureate degree.

(b)(1) To be eligible for financial assistance under this section, an enlisted member of the Coast Guard Reserve shall—

(A) be enrolled on a full-time basis in a program of education referred to in subsection (a) at any institution of higher education; and

(B) enter into a written agreement with the Coast Guard described in paragraph (2).

(2) A written agreement referred to in paragraph (1)(B) is an agreement between the member and the Secretary in which the member agrees—

(A) to accept an appointment as a commissioned officer in the Coast Guard Reserve, if tendered;

(B) to serve on active duty for up to five years; and

(C) under such terms and conditions as shall be prescribed by the Secretary, to serve in the Coast Guard Reserve until the eighth anniversary of the date of the appointment.

(c) Expenses for which financial assistance may be provided under this section are the following:

(1) Tuition and fees charged by the institution of higher education involved.

(2) The cost of books.

(3) In the case of a program of education leading to a baccalaureate degree, laboratory expenses.

(4) Such other expenses as are deemed appropriate by the Secretary.

(d) The amount of financial assistance provided to a member under this section shall be prescribed by the Secretary, but may not exceed $25,000 for any academic year.

(e) Financial assistance may be provided to a member under this section for up to 5 consecutive academic years.

(f) A member who receives financial assistance under this section may be ordered to active duty in the Coast Guard Reserve by the Secretary to serve in a designated enlisted grade for such period as the Secretary prescribes, but not more than 4 years, if the member—

(1) completes the academic requirements of the program and refuses to accept an appointment as a commissioned officer in the Coast Guard Reserve when offered;

(2) fails to complete the academic requirements of the institution of higher education involved; or

(3) fails to maintain eligibility for an original appointment as a commissioned officer.

(g)(1) If a member requests to be released from the program and the request is accepted by the Secretary, or if the member fails because of misconduct to complete the period of active duty specified, or if the member fails to fulfill any term or condition of the written agreement required to be eligible for financial assistance under this section, the financial assistance shall be terminated. The Secretary may request the member to reimburse the United States in an amount that bears the same ratio to the total costs of the education provided to that member as the unserved portion of active duty bears to the total period of active duty the member agreed to serve. The Secretary shall have the option to order such reimbursement without first ordering the member to active duty. An obligation to reimburse the United States imposed

under this paragraph is a debt owed to the United States.

(2) The Secretary may waive the service obligated under subsection (f) of a member who becomes unqualified to serve on active duty due to a circumstance not within the control of that member or who is not physically qualified for appointment and who is determined to be unqualified for service as an enlisted member of the Coast Guard Reserve due to a physical or medical condition that was not the result of the member's own misconduct or grossly negligent conduct.

(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of a written agreement entered into under subsection (b) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

(h) As used in this section, the term ''institution of higher education'' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(Added Pub. L. 107–295, title IV, § 413(a), Nov. 25, 2002, 116 Stat. 2119.)

§ 710. Appointment or wartime promotion; retention of grade upon release from active duty

(a) A member of the Reserve on active duty, who is appointed or promoted under section 214 or 275 of this title, is entitled upon release from that duty to the highest grade satisfactorily held by reason of that appointment or promotion. The Secretary shall determine the highest grade satisfactorily held.

(b) Unless otherwise entitled to a higher grade, a member recalled to active duty shall be recalled in the grade in which released under subsection (a).

(Added Pub. L. 96–322, § 1, Aug. 4, 1980, 94 Stat. 1006.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 759a of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 711. Exclusiveness of service

No member of the Reserve, other than a temporary member, may be a member of another military organization. A temporary member of the Reserve who is a member of another military component shall, if ordered to active duty therein, be disenrolled as a temporary member of the Reserve.

(Added Pub. L. 96–322, § 1, Aug. 4, 1980, 94 Stat. 1006; amended Pub. L. 97–136, § 6(c)(1), (2), Dec. 29, 1981, 95 Stat. 1706.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 757 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

AMENDMENTS

1981—Pub. L. 97–136 struck out provision that a member of the Reserve, other than a temporary member, is exempt from registration and liability for military training and service under any other law, and substituted ''Exclusiveness of service'' for ''Exemption from military training and draft; exclusiveness of service'' in section catchline.

§ 712. Active duty for emergency augmentation of regular forces

(a) Notwithstanding another law, and for the emergency augmentation of the Regular Coast Guard forces during a, or to aid in prevention of an imminent, serious natural or manmade disaster, accident, catastrophe, act of terrorism (as defined in section 2(16) of the Homeland Security Act of 2002 (6 U.S.C. 101(16))), or transportation security incident as defined in section 70101 of title 46, the Secretary may, without the consent of the member affected, order to active duty of not more than 60 days in any 4-month period and not more than 120 days in any 2-year period an organized training unit of the Coast Guard Ready Reserve, a member thereof, or a member not assigned to a unit organized to serve as a unit.

(b) Under the circumstances of the domestic emergency involved, a reasonable time shall be allowed between the date when a Reserve member ordered to active duty under this section is alerted for that duty and the date when the member is required to enter upon that duty. Unless the Secretary determines that the nature of the domestic emergency does not allow it, this period shall be at least two days.

(c) Active duty served under this section—

(1) satisfies on a day-for-day basis all or a part of the annual active duty for training requirement of section 10147 of title 10;

(2) does not satisfy any part of the active duty obligation of a member whose statutory Reserve obligation is not already terminated; and

(3) entitles a member while engaged therein, or while engaged in authorized travel to or from that duty, to all rights and benefits, including pay and allowances and time creditable for pay and retirement purposes, to which the member would be entitled while performing other active duty.

(d) Reserve members ordered to active duty under this section shall not be counted in computing authorized strength of members on active duty or members in grade under this title or under any other law.

(e) For purposes of calculating the duration of active duty allowed pursuant to subsection (a), each period of active duty shall begin on the first day that a member reports to active duty, including for purposes of training.

(Added Pub. L. 96–322, § 1, Aug. 4, 1980, 94 Stat. 1006; amended Pub. L. 102–241, § 13, Dec. 19, 1991, 105 Stat. 2213; Pub. L. 103–337, div. A, title XVI, § 1677(b)(3), Oct. 5, 1994, 108 Stat. 3020; Pub. L. 104–324, title II, § 204, Oct. 19, 1996, 110 Stat. 3907; Pub. L. 109–241, title II, § 206, July 11, 2006, 120 Stat. 521; Pub. L. 110–53, title V, § 502(c)(2), Aug. 3, 2007, 121 Stat. 311.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 764 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110–53 substituted ''section 2(16) of the Homeland Security Act of 2002 (6 U.S.C. 101(16))'' for ''section 2(15) of the Homeland Security Act of 2002 (6 U.S.C. 101(15))''.

2006—Subsec. (a). Pub. L. 109–241, § 206(1)–(4), substituted ''during a, or to aid in prevention of an imminent,'' for ''during a'', ''catastrophe, act of terrorism (as defined in section 2(15) of the Homeland Security Act of 2002 (6 U.S.C. 101(15))), or transportation security incident as defined in section 70101 of title 46,'' for ''or catastrophe,'', ''60 days in any 4-month period'' for ''thirty days in any four-month period'', and ''120 days in any 2-year period'' for ''sixty days in any two-year period''.

Subsec. (e). Pub. L. 109–241, § 206(5), added subsec. (e).

1996—Subsec. (d). Pub. L. 104–324 added subsec. (d).

1994—Subsec. (c)(1). Pub. L. 103–337 substituted ''section 10147 of title 10'' for ''section 270 of title 10''.

1991—Subsec. (a). Pub. L. 102–241 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Notwithstanding any other law, and for the emergency augmentation of the Regular Coast Guard forces during a time of serious natural or manmade disaster, accident, or catastrophe the Secretary may, subject to approval by the President and without the consent of the member affected, order to active duty of not more than fourteen days in any four-month period and not more than thirty days in any one-year period from the Coast Guard Ready Reserve an organized training unit, a member thereof, or a member not assigned to a unit organized to serve as a unit.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

§ 713. Enlistment of members engaged in schooling

The initial period of active duty for training required by section 12103(d) of title 10, may be divided into two successive annual periods of not less than six weeks each, to permit the enlistment of a Reserve member without interrupting any full-time schooling in which the member is engaged.

(Added Pub. L. 96–322, § 1, Aug. 4, 1980, 94 Stat. 1007; amended Pub. L. 103–337, div. A, title XVI, § 1677(b)(4), Oct. 5, 1994, 108 Stat. 3020.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 765 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

AMENDMENTS

1994—Pub. L. 103–337 substituted ''section 12103(d) of title 10'' for ''section 511(d) of title 10''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

SUBCHAPTER B

COMMISSIONED OFFICERS

§ 720. Definitions

As used in this subchapter—

(1) ''Reserve officer'' means a commissioned officer in the Reserve, except an officer excluded by section 721 of this title or a commissioned warrant officer; and

(2) ''discharged'' means released from an appointment as a Reserve officer.

(Added Pub. L. 96–322, § 1, Aug. 4, 1980, 94 Stat. 1007.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 770 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 721. Applicability of this subchapter

This subchapter applies only to the Reserve; except that it does not apply to a temporary member of the Reserve.

(Added Pub. L. 96–322, § 1, Aug. 4, 1980, 94 Stat. 1007.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 771 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 722. Suspension of this subchapter in time of war or national emergency

In time of war or national emergency declared by Congress, the President may suspend the operation of this subchapter or any part hereof. If this subchapter or any part hereof is suspended by the President, prior to placing the suspended provision in operation, the President shall by regulation, in so far as practicable, adjust the grades of Reserve officers in the same manner as adjustments in grade are made for Regular officers.

(Added Pub. L. 96–322, § 1, Aug. 4, 1980, 94 Stat. 1007.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 778 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

DELEGATION OF AUTHORITY

Authority of President under this section as invoked by section 2 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, delegated to Secretary of Homeland Security by section 5 of Ex. Ord. No. 13223, set out as a note under section 12302 of Title 10, Armed Forces.

§ 723. Effect of this subchapter on retirement and retired pay

Except as provided in subsection 746(b) of this title, nothing in this subchapter authorizes the retirement of a Reserve officer or the payment of retired, retainer, or severance pay to a Reserve officer; or affects in any manner the law relating to the retirement of, or the granting of retired or retainer pay or other benefits to a Reserve officer.

(Added Pub. L. 96–322, § 1, Aug. 4, 1980, 94 Stat. 1007.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 795 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 724. Authorized number of officers

(a) The authorized number of officers in the Reserve in an active status is 5,000. Reserve offi-

cers on an active-duty list shall not be counted as part of the authorized number of officers in the Reserve. The actual number of Reserve officers in an active status at any time shall not exceed the authorized number unless the Secretary determines that a greater number is necessary for planned mobilization requirements, or unless the excess results directly from the operation of law.

(b)(1) The Secretary shall make, at least once each year, a computation to determine the number of Reserve officers in an active status authorized to be serving in each grade. The number in each grade shall be computed by applying the applicable percentage to the total number of such officers serving in an active status on the date the computation is made. The number of Reserve officers in an active status below the grade of rear admiral (lower half) shall be distributed by pay grade so as not to exceed percentages of commissioned officers authorized by section 42(b) of this title. When the actual number of Reserve officers in an active status in a particular pay grade is less than the maximum percentage authorized, the difference may be applied to the number in the next lower grade. A Reserve officer may not be reduced in rank or grade solely because of a reduction in an authorized number as provided for in this subsection, or because an excess results directly from the operation of law.

(2) The authorized number of Reserve Officers in an active status not on active duty in the grades of rear admiral (lower half) and rear admiral is a total of two. However, the Secretary of the department in which the Coast Guard is operating may authorize an additional number of Reserve officers not on active duty in the grades of rear admiral (lower half) and rear admiral as necessary in order to meet planned mobilization requirements.

(c) DEFERRAL OF LIMITATION.—If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard Reserve, for a period not to exceed 6 months after the end of the war or termination of the national emergency.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1007; amended Pub. L. 97–417, §2(12), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 98–557, §25(a)(4), Oct. 30, 1984, 98 Stat. 2872; Pub. L. 99–145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 107–295, title I, §105(b), Nov. 25, 2002, 116 Stat. 2085; Pub. L. 109–241, title II, §207, July 11, 2006, 120 Stat. 521.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 772 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–241, §207(1), inserted ''Reserve officers on an active-duty list shall not be counted as part of the authorized number of officers in the Reserve.'' after ''5,000.''

Subsec. (b)(1). Pub. L. 109–241, §207(2), added par. (1) and struck out former par. (1) which read as follows: ''The authorized number of Reserve officers in an active status below the grade of rear admiral (lower half) shall be distributed in grade in the following percentages, respectively: captain, 1.5; commander, 7.0; lieutenant commander, 22.0; lieutenant, 37.0; and the combined grades of lieutenant (junior grade) and ensign, 32.5. When the actual number of Reserve officers in an active status in a grade is less than the number authorized, the difference may be applied to increase the authorized number in a lower grade. A Reserve officer may not be reduced in rank or grade solely because of a reduction in an authorized number as provided for in this subsection, or because an excess results directly from the operation of law.''

2002—Subsec. (c). Pub. L. 107–295 added subsec. (c).

1985—Subsec. (b). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore'' wherever appearing.

1984—Subsec. (b). Pub. L. 98–557 designated existing provisions as par. (1), struck out provisions authorizing number of Reserve officers in an active status not on active duty in the combined grades of commodore and rear admiral as two, and added par. (2).

1983—Subsec. (b). Pub. L. 97–417 substituted ''commodore'' for ''rear admiral'' and ''combined grades of commodore and real admiral'' for ''grade of rear admiral''.

§ 725. Precedence

(a) Reserve officers rank and take precedence in their respective grades among themselves and with officers of the same grade on the active duty promotion list and the permanent commissioned teaching staff in accordance with their dates of rank. When Reserve officers and officers on the active duty promotion list or the permanent commissioned teaching staff have the same date of rank in a grade, they take precedence as determined by the Secretary.

(b) Notwithstanding any other law, a Reserve officer shall not lose precedence when transferred to or from the active duty promotion list, nor shall that officer's date of rank be changed due to the transfer.

(c) A Reserve officer shall, when on the active duty promotion list, be promoted in the same manner as any other officer on the active duty promotion list regardless of the length of active duty service of the Reserve officer.

(d) Notwithstanding any other law, a Reserve officer shall not lose precedence by reason of promotion to the grade of rear admiral or rear admiral (lower half), if the promotion is determined in accordance with a running mate system.

(e) The Secretary shall adjust the date of rank of a Reserve officer so that no changes of precedence occur.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1008; amended Pub. L. 108–293, title II, §220(a), Aug. 9, 2004, 118 Stat. 1039.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 781 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

AMENDMENTS

2004—Subsecs. (d), (e). Pub. L. 108–293 added subsecs. (d) and (e).

§ 726. Running mates

(a) The Secretary shall assign a running mate to each Reserve officer in an active status not

on the active duty promotion list. The officer initially assigned as a running mate under this section shall be that officer on the active duty promotion list of the same grade who is next senior in precedence to the Reserve officer concerned. An officer who has twice failed of selection or who has been considered but has not been recommended for continuation under section 289 of this title shall not be assigned as a running mate under this section.

(b) A Reserve officer in an active status not on the active duty promotion list shall be assigned a new running mate as follows:

(1) If a previously assigned running mate is promoted from below the promotion zone, is removed from the active duty promotion list, suffers a loss of numbers, fails of selection, fails to qualify for promotion, or declines an appointment after being selected for promotion, the new running mate shall be that officer on the active duty promotion list, of the same grade, who is next senior to the previous running mate and who is, or may become, eligible for consideration for promotion. If the previous running mate was on a list of selectees for promotion, the new running mate shall be that officer on the active duty promotion list, of the same grade, who is on a list of selectees for promotion and who is next senior to the previous running mate.

(2) If a Reserve officer suffers a loss of numbers, the new running mate shall be that officer on the active duty promotion list who, after the loss of numbers has been effected, is the running mate of the Reserve officer next senior to the Reserve officer concerned.

(3) If a Reserve officer is considered for promotion and fails of selection, fails to qualify for promotion, declines an appointment after being selected for promotion, or has his or her name removed from a list of selectees for promotion, and that officer's running mate is promoted, the new running mate shall be that officer on the active duty promotion list, of the same grade, who, at the time the previous running mate was considered for promotion, was next senior to the previous running mate, was eligible for consideration for promotion, and whose name was not included on a list of selectees for promotion.

(4) In a situation not expressly covered by this subsection, the Secretary may assign a new running mate as necessary to effect the intent of this section that inequitable changes of precedence do not occur.

(c) A Reserve officer on the active duty promotion list shall, to the extent practicable and consistent with the limitations imposed by this section, be assigned as the running mate of all Reserve officers junior to the officer, who are in an active status not on the active duty promotion list, and who had a running mate in common with the officer just prior to the time the officer was placed on the active duty promotion list.

(d) The Secretary may adjust, as necessary, the date of rank of a Reserve officer not on active duty so that the date will correspond with that of the running mate assigned to the officer in accordance with this section. If an overpayment of pay or allowances results from adjusting the date of rank, the overpayment is not subject to recoupment.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1008.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 782 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 727. Constructive credit upon initial appointment

Under regulations prescribed by the Secretary, a person, appointed as a Reserve officer, may be assigned a date of rank and precedence which reflects that person's experience, education, or other qualifications. For the purpose of this subchapter only, a person appointed for the purpose of assignment or designation as a judge advocate in the reserve shall be credited with a minimum of one year service in an active status. A person holding a doctor of philosophy, or a comparable degree, in medicine or in a science allied to medicine as determined by the Secretary, may be credited with a minimum of three years service in an active status if appointed for an assignment comparable to that of an officer in the Navy Medical Department.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1009; amended Pub. L. 108–293, title II, §208, Aug. 9, 2004, 118 Stat. 1035; Pub. L. 109–241, title II, §218(b)(1), July 11, 2006, 120 Stat. 526.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 773 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

AMENDMENTS

2006—Pub. L. 109–241 substituted ''judge advocate'' for ''law specialist''.

2004—Pub. L. 108–293 substituted ''one year'' for ''three years'' in second sentence.

§ 728. Promotion of Reserve officers on active duty

(a) A Reserve officer on active duty, other than for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status, shall not be eligible for consideration for promotion under this subchapter; but shall be considered for promotion under chapter 11 of this title. If promoted while serving on active duty the officer shall be considered as having been promoted under this subchapter and shall be an extra number in the grade to which promoted for the purpose of grade distribution as prescribed in this subchapter. Upon release from active duty the officer shall be included in the grade distribution authorized by this subchapter.

(b) Notwithstanding subsection (a) of this section, a Reserve officer who has been selected for promotion to the next higher grade under this subchapter at the time the officer reports for active duty, shall be promoted to that grade under chapter 11 of this title.

(c) A Reserve officer who, at the time the officer is released from active duty, has been selected for promotion to the next higher grade under chapter 11 of this title, shall be promoted

to that grade as though selected under this subchapter.

(d) A failure of selection for promotion to the next higher grade occurring under this subchapter or under chapter 11 of this title shall count for all purposes.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1009.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 791 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 729. Promotion; recommendations of selection boards

(a) Except as otherwise provided by law, a Reserve officer shall only be promoted pursuant to the recommendation of a selection board.

(b) The Secretary shall convene selection boards from time to time to recommend Reserve officers for promotion to the next higher grade. A board may be convened to consider officers in one or more grades.

(c) A selection board shall, from among the names of those eligible Reserve officers submitted to it, recommend for promotion to the next higher grade:

(1) those officers serving in the grade of lieutenant (junior grade) or above whom it considers to be best qualified; and

(2) those officers serving in the grade of ensign whom it considers to be fully qualified.

(d)(1) Before convening a selection board to recommend Reserve officers for promotion, the Secretary shall establish a promotion zone for officers serving in each grade to be considered by the board. The Secretary shall determine the number of officers in the promotion zone for officers serving in any grade from among officers who are eligible for promotion in that grade.

(2)(A) Before convening a selection board to recommend Reserve officers for promotion to a grade (other than the grade of lieutenant (junior grade)), the Secretary shall determine the maximum number of officers in that grade that the board may recommend for promotion.

(B) The Secretary shall make the determination under subparagraph (A) of the maximum number that may be recommended with a view to having in an active status a sufficient number of Reserve officers in each grade to meet the needs of the Coast Guard for Reserve officers in an active status.

(C) In order to make the determination under subparagraph (B), the Secretary shall determine the following:

(i) The number of positions needed to accomplish mission objectives that require officers in the grade to which the board will recommend officers for promotion.

(ii) The estimated number of officers needed to fill vacancies in such positions during the period in which it is anticipated that officers selected for promotion will be promoted.

(iii) The number of officers authorized by the Secretary to serve in an active status in the grade under consideration.

(iv) Any statutory limitation on the number of officers in any grade authorized to be in an active status.

(3)(A) The Secretary may, when the needs of the Coast Guard require, authorize the consideration of officers in a grade above lieutenant (junior grade) for promotion to the next higher grade from below the promotion zone.

(B) When selection from below the promotion zone is authorized, the Secretary shall establish the number of officers that may be recommended for promotion from below the promotion zone. That number may not exceed the number equal to 10 percent of the maximum number of officers that the board is authorized to recommend for promotion, except that the Secretary may authorize a greater number, not to exceed 15 percent of the total number of officers that the board is authorized to recommend for promotion, if the Secretary determines that the needs of the Coast Guard so require. If the maximum number determined under this subparagraph is less than one, the board may recommend one officer for promotion from below the promotion zone.

(C) The number of officers recommended for promotion from below the promotion zone does not increase the maximum number of officers that the board is authorized to recommend for promotion under paragraph (2).

(e) The law and regulations relating to the selection for promotion of a commissioned officer of the Regular Coast Guard to the grades of rear admiral (lower half) and rear admiral apply to a Reserve officer, except that to be eligible for consideration for promotion to the grade of rear admiral (lower half) an officer shall have completed at least ten years commissioned service, of which the last five years shall have been served in the Coast Guard Reserve.

(f) The provisions of section 260 of this title apply to boards convened under this section. The Secretary shall determine the procedure to be used by a selection board.

(g) The report of a selection board shall be submitted to the Secretary for review and transmission to the President for approval. When an officer recommended by a board for promotion is not acceptable to the President, the President may remove the name of that officer from the report of the board.

(h) The recommendations of a selection board, as approved by the President, constitute a list of selectees from which the promotions of Reserve officers shall be made. An officer on a list of selectees remains thereon until promoted unless removed by the President under section 738 of this title. If an existing list of selectees has not been exhausted by the time a later list has been approved, all officers remaining on the older list shall be tendered appointments prior to those on the later list.

(i) A Reserve officer whose name is on a list of selectees for promotion shall, unless that officer's promotion is lawfully withheld, be tendered an appointment in the next higher grade on the date a vacancy occurs, or as soon thereafter as practicable in the grade to which the officer was selected for promotion or, if promotion was determined in accordance with a running mate system, at the same time, or as soon thereafter as practicable, as that officer's running mate is tendered a similar appointment.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1010; amended Pub. L. 97–417, §2(13), Jan. 4, 1983,

96 Stat. 2086; Pub. L. 99–145, title V, § 514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 106–398, § 1 [[div. A], title V, § 502(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–99; Pub. L. 107–295, title IV, § 411(a), Nov. 25, 2002, 116 Stat. 2118.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 780 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

AMENDMENTS

2002—Subsec. (i). Pub. L. 107–295 inserted ''on the date a vacancy occurs, or as soon thereafter as practicable in the grade to which the officer was selected for promotion or, if promotion was determined in accordance with a running mate system,'' after ''grade''.

2000—Subsec. (d). Pub. L. 106–398 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Before convening a selection board to recommend Reserve officers for promotion to a grade above lieutenant (junior grade), the Secretary shall determine the total number of Reserve officers to be selected for promotion to that grade. The number to be selected shall normally be equal to the number of vacancies existing in that grade, plus the number of vacancies anticipated over the next twelve months, minus the number of officers on the list of selectees for that grade. The Secretary may, however, prescribe regulations that provide for the establishment of promotion opportunity percentages for each grade to ensure that equitable promotion opportunities exist among successive groups of Reserve officers being considered for promotion. The number so determined may not cause the number of Reserve officers in an active status in a grade to exceed that authorized for the grade concerned.''

1985—Subsec. (e). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore'' wherever appearing.

1983—Subsec. (e). Pub. L. 97–417 substituted ''the grades of commodore and rear admiral'' for ''the grade of rear admiral'', and inserted ''for promotion to the grade of commodore'' after ''consideration''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, § 1 [[div. A], title V, § 502(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–100, provided that: ''The amendments made by this section [amending this section and section 731 of this title] shall apply with respect to selection boards convened under section 730 of title 14, United States Code, on or after the date of the enactment of this Act [Oct. 30, 2000].''

DELEGATION OF FUNCTIONS

For assignment of functions of President under subsec. (g) of this section, see section 2(c) of Ex. Ord. No. 13358, Sept. 28, 2004, 69 F.R. 58797, set out as a note under section 301 of Title 3, The President.

§ 730. Selection boards; appointment

(a) A selection board shall (1) be appointed and convened by the Secretary; (2) consist of at least 50 per centum Reserve officer membership, except in the case of a flag officer selection board where, to the extent practicable, it shall consist of at least 50 per centum Reserve officer membership; (3) consist only of members, Reserve or Regular, senior in grade to any officer being considered by that board; and (4) be composed of not less than five members, which number constitutes a quorum.

(b) A selection board serves for the length of time prescribed by the Secretary, but no board may serve longer than one year. No officer may serve on two consecutive selection boards for the same grade when the second of those boards considers an officer who was considered, but not recommended for promotion, by the first selection board.

(c) Each member of a selection board shall swear that he will, without prejudice or partiality, and having in view both the special fitness required of officers and the efficiency of the Coast Guard, perform the duties imposed upon him. Not less than a majority of the total membership of a selection board shall concur in each recommendation made by the board.

(d) An officer eligible for consideration for promotion by a selection board may forward, through official channels, a written communication inviting the attention of the board to any matter in the officer's record in the armed forces that, in the opinion of the officer concerned, is important to the board's consideration. A communication forwarded under this subsection shall arrive in time to allow delivery to the board prior to its convening, and may not criticize or reflect upon the character, conduct, or motive of any officer.

(Added Pub. L. 96–322, § 1, Aug. 4, 1980, 94 Stat. 1011.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 775 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 731. Establishment of promotion zones under running mate system

(a) AUTHORITY TO USE RUNNING MATE SYSTEM.—The Secretary may by regulation implement section 729(d)(1) of this title by requiring that the promotion zone for consideration of Reserve officers in an active status for promotion to the next higher grade be determined in accordance with a running mate system as provided in subsection (b).

(b) CONSIDERATION FOR PROMOTION.—If promotion zones are determined as authorized under subsection (a), a Reserve officer shall, subject to the eligibility requirements of this subchapter, be placed in a promotion zone when that officer's running mate is placed in a promotion zone and shall, in accordance with the provisions of this subchapter, be considered for promotion at approximately the same time as that officer's running mate or as soon thereafter as practicable, or in the event that promotion is not determined in accordance with a running mate system, then a Reserve officer becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he or she completes the following amount of service computed from the date of rank in the grade in which he or she is serving:

(1) two years in the grade of lieutenant (junior grade);

(2) three years in the grade of lieutenant;

(3) four years in the grade of lieutenant commander;

(4) four years in the grade of commander; and

(5) three years in the grade of captain.

(c) CONSIDERATION OF OFFICERS BELOW THE ZONE.—If the Secretary authorizes the selection

of officers for promotion from below the promotion zone in accordance with section 729(d)(3) of this title, the number of officers to be considered from below the zone may be established through the application of the running mate system under this subchapter or otherwise as the Secretary determines to be appropriate to meet the needs of the Coast Guard.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1011; amended Pub. L. 106–398, §1 [[div. A], title V, §502(b)(1), (2)(A)], Oct. 30, 2000, 114 Stat. 1654, 1654A–100; Pub. L. 107–295, title IV, §411(b), Nov. 25, 2002, 116 Stat. 2118.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 783 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–295 inserted before period at end ‘‘, or in the event that promotion is not determined in accordance with a running mate system, then a Reserve officer becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he or she completes the following amount of service computed from the date of rank in the grade in which he or she is serving:

‘‘(1) two years in the grade of lieutenant (junior grade);

‘‘(2) three years in the grade of lieutenant;

‘‘(3) four years in the grade of lieutenant commander;

‘‘(4) four years in the grade of commander; and

‘‘(5) three years in the grade of captain’’.

2000—Pub. L. 106–398, §1 [[div. A], title V, §502(b)(2)(A)], substituted ‘‘Establishment of promotion zones under running mate system’’ for ‘‘Placement in promotion zone; consideration for promotion’’ as section catchline.

Pub. L. 106–398, §1 [[div. A], title V, §502(b)(1)], added subsec. (a), designated existing provisions as subsec. (b), inserted subsec. (b) heading and substituted ‘‘If promotion zones are determined as authorized under subsection (a), a Reserve officer shall, subject to the eligibility requirements of this subchapter,’’ for ‘‘Subject to the eligibility requirements of this subchapter, a Reserve officer shall’’, and added subsec. (c).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–398 applicable with respect to selection boards convened under section 730 of this title on or after Oct. 30, 2000, see section 1 [[div. A], title V, §502(c)] of Pub. L. 106–398, set out as a note under section 729 of this title.

§ 732. Eligibility for promotion

A Reserve officer is eligible for consideration for promotion and for promotion under this subchapter, if that officer is in an active status. A Reserve officer who has been considered but not recommended for retention in an active status by a board convened under subsection 741(a) of this title, is not eligible for consideration for promotion.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1011.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 774 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 733. Recommendation for promotion of an officer previously removed from an active status

A Reserve officer recommended for promotion by a selection board but not promoted because of removal from an active status shall be reconsidered by a selection board after returning to an active status and if selected shall be placed on a recommended list of selectees for promotion. A Reserve officer to whom this section applies is not considered to have failed of selection when eliminated from a list of selectees for promotion solely as a result of being removed from an active status.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1012.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 777 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 734. Qualifications for promotion

(a) A Reserve officer shall not be promoted to a higher grade unless the officer has been found to be physically qualified and the character of the officer’s service subsequent to the convening of the selection board which recommended the officer for promotion has been verified as satisfactory.

(b) Subsection (a) of this section does not exclude from promotion a Reserve officer physically disqualified by a medical board for duty at sea or in the field, if the disqualification results from wounds received in the line of duty, and those wounds do not incapacitate the officer for other duties in the grade to which the officer is to be promoted.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1012.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 786 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 735. Promotion; acceptance; oath of office

(a) A Reserve officer who has been appointed under this subchapter is considered to have accepted the appointment unless delivery thereof cannot be effected.

(b) A Reserve officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5, is not required to take a new oath of office upon appointment in a higher grade.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1012.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 797 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 736. Date of rank upon promotion; entitlement to pay

(a) When a Reserve officer is promoted to the next higher grade under this subchapter, the date of rank shall be the date of appointment in that grade, unless the promotion was deter-

mined in accordance with a running mate system, in which event the same date of rank shall be assigned as that assigned to the officer's running mate. A Reserve officer so promoted shall be allowed the pay and allowances of the higher grade for duty performed from the date of the officer's appointment thereto.

(b) Notwithstanding any other provision of law and subject to subsection (c), if promotion of an inactive duty promotion list officer to the grade of rear admiral or rear admiral (lower half) is determined in accordance with a running mate system, a reserve officer, if acceptable to the President and the Senate, shall be promoted to the next higher grade no later than the date the officer's running mate is promoted.

(c) For the purposes of this section, the date of appointment shall be that date when promotion authority is exercised by the Secretary. However, the Secretary may adjust the date of appointment—

(1) if a delay in the finding required under section 734(a) of this title is beyond the control of the officer and the officer is otherwise qualified for promotion; or

(2) for any other reason that equity requires.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1012; amended Pub. L. 97–417, §2(14), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 99–145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 101–225, title II, §203(4), Dec. 12, 1989, 103 Stat. 1911; Pub. L. 107–295, title IV, §411(c), Nov. 25, 2002, 116 Stat. 2118; Pub. L. 108–293, title II, §220(b), (c), Aug. 9, 2004, 118 Stat. 1039.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 784 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–293, §220(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Notwithstanding any other law, when the running mate of a reserve officer serving in the grade of rear admiral (lower half) is promoted to the grade of rear admiral, the reserve officer shall also be promoted to that grade.''

Subsec. (c). Pub. L. 108–293, §220(c), struck out ''of subsection (a)'' after ''For the purposes''.

2002—Subsec. (a). Pub. L. 107–295 inserted ''the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event'' after ''subchapter,''.

1989—Subsec. (c). Pub. L. 101–225 inserted provision authorizing Secretary to adjust date of appointment.

1985—Subsec. (b). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore''.

1983—Subsec. (b). Pub. L. 97–417 substituted provision that, notwithstanding any other law, when the running mate of a reserve officer serving in the grade of commodore is promoted to the grade of rear admiral, the reserve officer shall also be promoted to that grade, for provision that, notwithstanding any other law and when a Reserve officer's running mate was so entitled, a Reserve officer in the grade of rear admiral was entitled to the pay and allowances of the upper half for duty performed.

§ 737. Type of promotion; temporary

Notwithstanding any other law, if a Reserve officer is promoted when the officer's running mate is promoted and the promotion of the running mate is on a temporary basis, the promotion of the Reserve officer is also on a temporary basis. If subsequently the running mate is reverted to a lower grade, other than for reasons of discipline, incompetence, or at the running mate's request, the Reserve officer shall likewise revert to the same lower grade with corresponding precedence.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1012.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 790 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 738. Effect of removal by the President or failure of consent of the Senate

(a) The President may, for cause, remove the name of any officer from a list of selectees established under section 729 of this title.

(b) If the Senate, where required, does not consent to the appointment of an officer whose name is on a list of selectees established under section 729 of this title, that officer's name shall be removed from the list.

(c) An officer whose name is removed from a list of selectees under subsection (a) or (b) continues to be eligible for consideration for promotion. If selected for promotion by the next selection board and promoted, that officer shall be assigned the date of rank and precedence that would have been assigned if the officer's name had not been previously removed. However, if the officer is not selected by the next selection board, or if the officer's name is again removed from the list of selectees, the officer shall be considered for all purposes as having twice failed of selection for promotion.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1013.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 788 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

DELEGATION OF FUNCTIONS

For assignment of functions of President under subsec. (a) of this section, see section 2(d) of Ex. Ord. No. 13358, Sept. 28, 2004, 69 F.R. 58797, set out as a note under section 301 of Title 3, The President.

§ 739. Failure of selection for promotion

(a) A Reserve officer, other than one serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for the officer's grade, fails of selection if not selected for promotion by the selection board that considered the officer, or if having been selected for promotion by the board, the officer's name is thereafter removed from the report of the board by the President.

(b) A Reserve officer is not considered to have failed of selection if the officer was not considered by a selection board because of administrative error. If that officer is selected by the next appropriate selection board after the error is discovered, and is promoted, the same date of rank and precedence shall be assigned that would have been assigned if the officer had been

recommended for promotion by the selection board that originally would have considered the officer but for the error.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1013.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 796 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 740. Failure of selection and removal from an active status

(a) The Secretary—

(1) may remove from an active status a Reserve officer who has twice failed of selection to the next higher grade; and

(2) shall remove from an active status a Reserve officer serving in the grade of captain who has completed thirty years of total commissioned service and whose name is not carried on an approved list of selectees for promotion to the grade of rear admiral (lower half).

(b) A Reserve officer who has twice failed of selection to the next higher grade and who is not removed from an active status under subsection (a)(1) of this section shall be retained for the period prescribed by the Secretary.

(c) Subject to section 12646 of title 10, a Reserve officer who is removed from an active status under subsection (a) of this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged as follows:

(1) if removed from an active status under subsection (a)(1) of this section, on June 30 next following the approval date of the board report by virtue of which the officer's second failure of selection occurs; or

(2) if removed from an active status under subsection (a)(2) of this section, on June 30 next following the date on which the officer completes thirty years of total commissioned service as computed under this section.

(d) For the purpose of this section, the total commissioned service of an officer who has served continuously in the Reserve following appointment in the grade of ensign shall be computed from the date on which that appointment was accepted. A Reserve officer initially appointed in a grade above ensign is considered to have the actual total commissioned service performed in a grade above commissioned warrant officer or the same total commissioned service as an officer of the Regular Coast Guard who has served continuously from an original appointment as ensign, who has not lost numbers or precedence, and who is, or was, junior to the Reserve officer, whichever is greater.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1013; amended Pub. L. 97–417, §2(15), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 99–145, title V, §514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 103–337, div. A, title XVI, §1677(b)(5), Oct. 5, 1994, 108 Stat. 3020.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 787 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–337 substituted ''section 12646 of title 10'' for ''section 1006 of title 10''.

1985—Subsec. (a)(2). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore''.

1983—Subsec. (a)(2). Pub. L. 97–417 substituted ''commodore'' for ''rear admiral''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

§ 741. Retention boards; removal from an active status to provide a flow of promotion

(a) Notwithstanding any other provision of this title, whenever the Secretary determines that it is necessary to reduce the number of Reserve officers in an active status in any grade to provide a steady flow of promotion, or that there is an excessive number of Reserve officers in an active status in any grade, the Secretary may appoint and convene a retention board to consider all of the Reserve officers in that grade in an active status who have 18 years or more of service for retirement, except those officers who—

(1) are on extended active duty;

(2) are on a list of selectees for promotion;

(3) will complete 30 years total commissioned service by June 30th following the date that the retention board is convened; or

(4) have reached age 59 by the date on which the retention board is convened.

The retention board shall select and recommend a specified number of the officers under consideration for retention in an active status.

(b) This board shall—

(1) to the extent practicable, consist of at least 50 per centum Reserve officers;

(2) consist only of officers who are senior in rank to any officers being considered by that board; and

(3) to the extent practicable, consist of officers who have not served on the last previous retention board which considered officers of the same grade.

(c) Subject to section 12646 of title 10, a Reserve officer who is not recommended for retention in an active status under this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged on June 30 next following the date on which the report of the retention board is approved.

(d) The provisions of section 260 of this title shall, to the extent that they are not inconsistent with this subchapter, apply to boards convened under this section.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1014; amended Pub. L. 101–225, title II, §203(5), Dec. 12, 1989, 103 Stat. 1911; Pub. L. 103–206, title

II, § 203, Dec. 20, 1993, 107 Stat. 2420; Pub. L. 103–337, div. A, title XVI, § 1677(b)(5), Oct. 5, 1994, 108 Stat. 3020; Pub. L. 104–106, div. A, title XV, § 1501(e)(1)(B), Feb. 10, 1996, 110 Stat. 501.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 787a of this title prior to the complete revision of this chapter by Pub. L. 96–322.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–106 substituted ''section 12646 of title 10'' for ''section 1006 of title 10''.

1994—Subsec. (b). Pub. L. 103–337, which directed amendment of subsec. (b) by substituting ''section 12646 of title 10'' for ''section 1006 of title 10'', could not be executed because the words ''section 1006 of title 10'' did not appear in subsec. (b).

1993—Pub. L. 103–206 in subsec. (a) in first sentence substituted '', except those officers who—'' and pars. (1) to (4) for ''and are not on active duty and not on an approved list of selectees for promotion to the next higher grade'', realigned margin of second sentence, inserted ''(b)'' before ''This board shall—'' in third sentence and realigned margin, and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1989—Subsec. (a). Pub. L. 101–225 inserted ''who have 18 years or more of service for retirement and are'' before ''not on active duty''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

§ 742. Maximum ages for retention in an active status

(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes 60 years of age unless on active duty. If not qualified for retirement, a Reserve officer shall be discharged effective upon the day the officer becomes 60 years of age unless on active duty.

(b) A Reserve officer on active duty shall, if qualified, be retired effective upon the day the officer become 62 years of age. If not qualified for retirement, a Reserve officer on active duty shall be discharged effective upon the day the officer becomes 62 years of age.

(c) Notwithstanding subsection[1] (a) and (b), the Secretary may authorize the retention of a Reserve rear admiral or rear admiral (lower half) in an active status not longer than the day on which the officer concerned becomes 64 years of age.

(d) For purposes of this section, ''active duty'' does not include active duty for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status.

(Added Pub. L. 96–322, § 1, Aug. 4, 1980, 94 Stat. 1014; amended Pub. L. 97–417, § 2(16), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 99–145, title V, § 514(c)(1), Nov. 8, 1985, 99 Stat. 629; Pub. L. 108–293, title II, § 209, Aug. 9, 2004, 118 Stat. 1035.)

AMENDMENTS

2004—Pub. L. 108–293 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows:

''(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes sixty-two years of age.

''(b) Notwithstanding subsection (a) of this section, the Secretary may authorize the retention of a Reserve rear admiral or rear admiral (lower half) in an active status not longer than the day on which the officer concerned becomes sixty-four years of age.

''(c) Except as provided for in subsections (a) and (b) of this section, a Reserve officer shall be discharged effective upon the day the officer becomes sixty-two years of age.''

1985—Subsec. (b). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore''.

1983—Subsec. (b). Pub. L. 97–417 inserted ''or commodore'' after ''rear admiral''.

§ 743. Rear admiral and rear admiral (lower half); maximum service in grade

(a) Unless retained in or removed from an active status under any other law, a reserve rear admiral or rear admiral (lower half) shall be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes 4 years of service after the appointment of the officer to rear admiral (lower half).

(b) Notwithstanding any other provision of law, if promotion of inactive duty promotion list officers to the grade of rear admiral is not determined in accordance with a running mate system, a Reserve officer serving in an active status in the grade of rear admiral (lower half) shall be promoted to the grade of rear admiral, if acceptable to the President and the Senate, on the date the officer has served 2 years in an active status in grade of rear admiral (lower half), or in the case of a vacancy occurring prior to having served 2 years in an active status, on the date the vacancy occurs, if the officer served at least 1 year in an active status in the grade of rear admiral (lower half).

(Added Pub. L. 96–322, § 1, Aug. 4, 1980, 94 Stat. 1015; amended Pub. L. 97–417, § 2(17)(A), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 99–145, title V, § 514(c)(1), (3)(A), Nov. 8, 1985, 99 Stat. 629; Pub. L. 108–293, title II, § 220(d), Aug. 9, 2004, 118 Stat. 1039.)

AMENDMENTS

2004—Pub. L. 108–293 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''Unless retained in or removed from an active status under any other law, a Reserve rear admiral or rear admiral (lower half) shall be removed from an active status on the day that officer completes four years combined service in the grades of rear admiral and rear admiral (lower half).''

1985—Pub. L. 99–145 substituted references to ''rear admiral (lower half)'' for ''commodore'' in section catchline and two places in text.

1983—Pub. L. 97–417 inserted reference to ''commodore'' in section catchline and text.

§ 744. Appointment of a former Navy or Coast Guard officer

A former officer of the Regular Navy or Coast Guard who applies for a Reserve commission

[1] So in original. Probably should be ''subsections''.

within one year of resigning the officer's Regular commission, and who is appointed in the same grade previously held in the Regular Navy or Coast Guard, shall be given the same date or rank in that grade as that previously assigned to the officer while a member of the Regular Navy or Coast Guard.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1015.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 792 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 745. Grade on entry upon active duty

A Reserve officer ordered to active duty or active duty for training shall be ordered in the grade held; except that the Secretary may authorize a higher grade.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1015.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 776 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

§ 746. Recall of a retired officer; grade upon release

(a) When an officer in the Retired Reserve or an officer on a Reserve retired list is recalled to active duty, that officer shall be recalled in a manner similar to the recall of a Regular retired officer.

(b) An officer in the Retired Reserve or an officer on a Reserve retired list recalled to active duty shall upon release therefrom be advanced in the Retired Reserve or on the Reserve retired list to the highest grade held on active duty, if: (1) appointed to a higher grade while on that duty, and (2) the officer's performance has been satisfactory in the higher grade.

(Added Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1015.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 793 of this title prior to the complete revision of this chapter by Pub. L. 96–322.

[§ 751. Repealed. July 9, 1952, ch. 608, part VIII, § 803, 66 Stat. 505]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 551; Aug. 3, 1950, ch. 536, §31, 64 Stat. 408, related to the purpose and administration of the Reserve.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of sixth month following July 1952, see section 802 of act July 9, 1952.

[§ 751a. Omitted]

CODIFICATION

Section, added act Aug. 10, 1956, ch. 1041, §15(a), 70A Stat. 624, provided for the organization of the Coast Guard Reserve and was omitted in the general revision of this chapter by Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1002. See section 701 of this section.

WOMEN'S BRANCH OF THE COAST GUARD RESERVE

Section 3 of Pub. L. 93–174, Dec. 5, 1973, 87 Stat. 692, provided that: ''Effective upon enactment of this Act [Dec. 5, 1973], all members of the women's branch of the Coast Guard Reserve who were serving on active or inactive duty on the day before enactment shall become members of the Coast Guard Reserve without loss of grade, rate, date of rank, or other benefits earned by their prior service.''

[§ 752. Repealed. July 9, 1952, ch. 608, part VIII, § 803, 66 Stat. 505]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 551, related to eligibility.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of sixth month following July 1952, see section 802 of act July 9, 1952.

[§ 752a. Omitted]

CODIFICATION

Section, added act Aug. 10, 1956, ch. 1041, §15(a), 70A Stat. 625, related to the authorized strength of the Coast Guard Reserve and was omitted in the general revision of this chapter by Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1002. See Section 702 of this title.

[§ 753. Repealed. July 9, 1952, ch. 608, part VIII, § 803, 66 Stat. 505]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 551, related to term of appointment, duty, and training.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of sixth month following July 1952, see section 802 of act July 9, 1952.

[§§ 753a to 757. Omitted]

CODIFICATION

Sections were omitted in the general revision of this chapter by Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1002.

Section 753a, added act Aug. 10, 1956, ch. 1041, §15(a), 70A Stat. 625, related to the Coast Guard Reserve Policy Board. See section 703 of this title.

Section 754, act Aug. 4, 1949, ch. 393, 63 Stat. 551, related to grades and ratings and military authority. See section 704 of this title.

Section 755, acts Aug. 4, 1949, ch. 393, 63 Stat. 551; Aug. 3, 1950, ch. 536, §32, 64 Stat. 408; Aug. 16, 1957, Pub. L. 85–149, 71 Stat. 369; Sept. 7, 1962, Pub. L. 87–649, §7(a), 76 Stat. 495; Sept. 25, 1965, Pub. L. 89–200, 79 Stat. 834; June 9, 1966, Pub. L. 89–444, §1(23), 80 Stat. 197; Dec. 5, 1973, Pub. L. 93–174, §2(1), 87 Stat. 692, related to benefits. See section 705 of this title.

Section 756, act Aug. 4, 1949, ch. 393, 63 Stat. 552, related to temporary membership. See section 706 of this title.

Section 757, act Aug. 4, 1949, ch. 393, 63 Stat. 552, related to exemption from military training and the draft. See section 711 of this title.

[§ 758. Repealed. May 5, 1950, ch. 169, § 14(u), 64 Stat. 148]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 552, related to discipline. See the Uniform Code of Military Justice, section 801 et seq. of Title 10, Armed Forces.

[§ 758a. Omitted]

CODIFICATION

Section, added act Aug. 10, 1956, ch. 1041, §16(a), 70A Stat. 625; amended Sept. 7, 1962, Pub. L. 87–649, §14d(6), 76 Stat. 502, related to reserve student aviation pilots and was omitted in the general revision of this chapter by Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1002. See section 709 of this title.

[§ 759. Repealed. July 9, 1952, ch. 608, part VIII, § 803, 66 Stat. 505]

Section, act Aug. 4, 1949, ch. 393, 63 Stat. 553, related to uniform allowance.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of sixth month following July 1952, see section 802 of act July 9, 1950.

[§§ 759a to 761. Omitted]

CODIFICATION

Sections were omitted in the general revision of this chapter by Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1002.

Section 759a, added act Aug. 10, 1956, ch. 1041, §16(a), 70A Stat. 626; amended Sept. 24, 1963, Pub. L. 88–130, §1(12), 77 Stat. 190, related to wartime appointments and promotions. See section 710 of this title.

Section 760, acts Aug. 4, 1949, ch. 393, 63 Stat. 553; Oct. 31, 1951, ch. 655, §15, 65 Stat. 715; Aug. 3, 1956, ch. 926, §2(a), 70 Stat. 981; May 14, 1974, Pub. L. 93–283, §1(12), 88 Stat. 141, related to disability or death benefits for temporary members. See section 707 of this title.

Section 2(b) of act Aug. 3, 1956, provided that the amendments made by that section [amending subsec. (a) and adding subsec. (e) of section 760] applied only to benefits for months beginning after the month in which it was enacted [August, 1956].

Section 2(c) of act Aug. 3, 1956, provided that the entitlement of any person to benefits under the Federal Employees' Compensation Act [act Sept. 7, 1916, ch. 458, 39 Stat. 742, repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 632, see section 8101 et seq. of Title 5, Government Organization and Employees] as it was in effect before the enactment of this section [Aug. 3, 1956] was not affected by this section.

Section 761, act Aug. 4, 1949, ch. 393, 63 Stat. 554, related to members of the Reserve engaging in civil occupations.

[§ 762. Repealed. Pub. L. 93–174, § 2(2), Dec. 5, 1973, 87 Stat. 692]

Section, acts Aug. 4, 1949, ch. 393, §1, 63 Stat. 554; Aug. 10, 1956, ch. 1041, §17, 70A Stat. 626; Sept. 18, 1970, Pub. L. 91–402, §1(1), 84 Stat. 838, related to Women's Reserve.

[§§ 763 to 765. Omitted]

CODIFICATION

Sections were omitted in the general revision of this chapter by Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1002.

Section 763, added Pub. L. 87–704, §1(a), Sept. 27, 1962, 76 Stat. 632, related to a certificate of honorable service of temporary members. See section 708 of this title.

Section 764, added Pub. L. 92–479, §1, Oct. 9, 1972, 86 Stat. 794, related to active duty for emergency augmentation of regular forces. See section 712 of this title.

Section 765, added Pub. L. 93–283, §1(13), May 14, 1974, 88 Stat. 141, related to enlistment of members engaged in schooling. See section 713 of this title.

[§§ 770 to 798. Omitted]

CODIFICATION

Sections were omitted in the general revision of this chapter by Pub. L. 96–322, §1, Aug. 4, 1980, 94 Stat. 1002. Similar provisions are now set out in section 720 et seq. of this title.

Section 770, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1547; amended Pub. L. 91–402, §1(2), Sept. 18, 1970, 84 Stat. 839, defined terms. See section 720 of this title.

Section 2 of Pub. L. 91–402 provided that Reserve officers in each grade who were recommended as qualified for promotion under laws and regulations in effect the day before the effective date of that Act [Sept. 18, 1970] but not promoted to the grade for which recommended, be placed on a list in order of precedence, and promoted as if selected for promotion in the approved report of a selection board convened under the provisions of title 14, as amended by that Act [enacting sections 796 to 798 and amending sections 762, 770, 772, 774, 775, 780 to 782, 784, 787, 790, and 791 of this title], that Reserve officers who failed of selection for promotion to the next higher grade under laws and regulations in effect the day before the effective date of that Act be deemed to have failed of selection for promotion to the next higher grade under the provisions of title 14 as amended by that Act, and that the enactment of that Act did not terminate the appointment of any officer.

Section 771, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1548; amended Pub. L. 89–444, §1(24), June 9, 1966, 80 Stat. 197; Pub. L. 93–174, §2(3), Dec. 5, 1973, 87 Stat. 692, related to applicability of sections 770 to 798 of this title. See section 721 of this title.

Section 772, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1548; amended Pub. L. 86–559, §2(1), June 30, 1960, 74 Stat. 280; Pub. L. 91–402, §1(3), Sept. 18, 1970, 84 Stat. 839, related to authorized number of officers. See section 724 of this title.

Section 773, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1548; amended Pub. L. 86–559, §2(2), June 30, 1960, 74 Stat. 281, related to constructive credit upon initial appointment. See section 727 of this title.

Section 774, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1549; amended Pub. L. 91–402, §1(4), Sept. 18, 1970, 84 Stat. 839, related to eligibility for promotion and retention in active status. See section 732 of this title.

Section 775, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1549; amended Pub. L. 91–402, §1(5), Sept. 18, 1970, 84 Stat. 839; Pub. L. 93–174, §2(4), Dec. 5, 1973, 87 Stat. 692, related to appointment of selection boards. See section 730 of this title.

Section 776, added Pub. L. 85–861, §1, §5(2), Sept. 2, 1958, 72 Stat. 1549, related to Reserve officer's grade on entry upon active duty. See section 745 of this title.

Section 777, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1549, related to recommendations for promotion of officers previously removed from active status. See section 733 of this title.

Section 778, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1550, related to suspension of sections 770 to 798 of this title in war or national emergency. See section 722 of this title.

Section 779, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1550, related to sea or foreign service requirements.

Section 780, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1550; amended Pub. L. 91–402, §1(6), Sept. 18, 1970, 84 Stat. 839; Pub. L. 93–174, §2(5), (6), Dec. 5, 1973, 87 Stat. 692, related to recommendations of selection boards. See section 729 of this title.

Section 781, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1551; amended Pub. L. 91–402, §1(7), Sept. 18, 1970, 84 Stat. 840, related to precedence in grades of officers. See section 725 of this title.

Section 782, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1551; amended Pub. L. 91–402, §1(8), Sept. 18, 1970, 84 Stat. 840, related to running mates. See section 726 of this title.

Section 783, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1552, related to promotion zones. See section 731 of this title.

Section 784, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1552; amended Pub. L. 91–402, §1(9), Sept. 18, 1970, 84 Stat. 841, related to date of rank upon promotion. See section 736 of this title.

Section 785, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1552, related to limitations on consideration for promotion.

Section 786, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1552, related to qualifications for promotion. See section 734 of this title.

Section 787, added Pub. L. 85–861, §5(2), Sept. 2, 1958, 72 Stat. 1552; amended Pub. L. 91–402, §1(10), Sept. 18, 1970, 84 Stat. 841; Pub. L. 93–174, §2(7), Dec. 5, 1973, 87 Stat. 692, related to failure of selection and elimination. See section 740 of this title.

Section 787a, added Pub. L. 86–559, §2(3), June 30, 1960, 74 Stat. 281, provided for elimination from active status

of excessive numbers to provide a flow of promotions. See section 741 of this title.

Section 788, added Pub. L. 85–861, § 5(2), Sept. 2, 1958, 72 Stat. 1553, related to effect of removal by President or failure of consent of Senate. See section 738 of this title.

Section 789, added Pub. L. 85–861, § 5(2), Sept. 2, 1958, 72 Stat. 1553, related to maximum ages for retention in active status. See section 742 of this title.

Section 790, added Pub. L. 85–861, § 5(2), Sept. 2, 1958, 72 Stat. 1554; amended Pub. L. 91–402, § 1(11), Sept. 18, 1970, 84 Stat. 841, related to types of promotion. See section 737 of this title.

Section 791, added Pub. L. 85–861, § 5(2), Sept. 2, 1958, 72 Stat. 1554; amended Pub. L. 88–130, § 1(13), Sept. 24, 1963, 77 Stat. 190; Pub. L. 91–402, § 1(12), Sept. 18, 1970, 84 Stat. 842, related to promotion of officers on active duty. See section 728 of this title.

Section 792, added Pub. L. 85–861, § 5(2), Sept. 2, 1958, 72 Stat. 1554, related to appointment of former Navy and Coast Guard officers. See section 744 of this title.

Section 793, added Pub. L. 85–861, § 5(2), Sept. 2, 1958, 72 Stat. 1554, related to grades upon relief of retired officers. See section 746 of this title.

Section 794, added Pub. L. 85–861, § 5(2), Sept. 2, 1958, 72 Stat. 1554, authorized Secretary to promulgate regulations. See section 633 of this title.

Section 795, added Pub. L. 85–861, § 5(2), Sept. 2, 1958, 72 Stat. 1555, related to effect of sections 770 to 798 of this title on retirements and retired pay. See section 723 of this title.

Section 796, added Pub. L. 91–402, § 1(13), Sept. 18, 1970, 84 Stat. 842; amended Pub. L. 93–174, § 2(8), Dec. 5, 1973, 87 Stat. 692, related to failure of selection for promotion. See section 739 of this title.

Section 797, added Pub. L. 91–402, § 1(13), Sept. 18, 1970, 84 Stat. 842, related to acceptance of promotion and oath of office. See section 735 of this title.

Section 798, added Pub. L. 91–402, § 1(13), Sept. 18, 1970, 84 Stat. 843, related to maximum service in grade of rear admiral. See section 743 of this title.

CHAPTER 23—COAST GUARD AUXILIARY

Sec.
821. Administration of the Coast Guard Auxiliary.
822. Purpose of the Coast Guard Auxiliary.
823. Eligibility, enrollments.
823a. Members of the Auxiliary; status.
824. Disenrollment.
825. Membership in other organizations.
826. Use of member's facilities.
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830. Availability of appropriations.
831. Assignment and performance of duties.
832. Injury or death in line of duty.

AMENDMENTS

1996—Pub. L. 104–324, title IV, §§ 401(b), 402(b), 403(b), Oct. 19, 1996, 110 Stat. 3923, 3924, inserted ''of the Coast Guard Auxiliary'' after ''Administration'' in item 821, inserted ''of the Coast Guard Auxiliary'' after ''Purpose'' in item 822, and added item 823a.

§ 821. Administration of the Coast Guard Auxiliary

(a) The Coast Guard Auxiliary is a nonmilitary organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (to be known as the ''Auxiliary headquarters unit''), districts, regions, divisions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 822, at all times be deemed to be an instrumentality of the United States, for purposes of the following:

(1) Chapter 26[1] of title 28 (popularly known as the Federal Tort Claims Act).

(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).

(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).

(5) Chapter 311 of title 46 (known as the Public Vessels Act).

(6) Other matters related to noncontractual civil liability.

(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law in accordance with policies established by the Commandant.

(d)(1) Except as provided in paragraph (2), personal property of the auxiliary shall not be considered property of the United States.

(2) The Secretary may treat personal property of the auxiliary as property of the United States—

(A) for the purposes of—

(i) the statutes and matters referred to in paragraphs (1) through (6) of subsection (b); and

(ii) section 641 of this title; and

(B) as otherwise provided in this chapter.

(3) The Secretary may reimburse the Auxiliary, and each organizational element and unit of the Auxiliary, for necessary expenses of operation, maintenance, and repair or replacement of personal property of the Auxiliary.

(4) In this subsection, the term ''personal property of the Auxiliary'' means motor boats, yachts, aircraft, radio stations, motorized vehicles, trailers, or other equipment that is under the administrative jurisdiction of the Coast Guard Auxiliary or an organizational element or unit of the Auxiliary and that is used solely for the purposes described in this subsection.

(Aug. 4, 1949, ch. 393, 63 Stat. 555; Pub. L. 104–324, title IV, § 401(a), Oct. 19, 1996, 110 Stat. 3922; Pub. L. 108–293, title II, § 226, Aug. 9, 2004, 118 Stat. 1041; Pub. L. 109–304, § 17(c), Oct. 6, 2006, 120 Stat. 1707.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 260, 263 (Feb. 19, 1941, ch. 8, title I, §§ 1, 4, 55 Stat. 9, 10).

[1] So in original. Probably should be 171.

This section continues the Auxiliary, redefining it as a nonmilitary organization, and providing for its administration. 81st Congress, House Report No. 557.

AMENDMENTS

2006—Subsec. (b)(3) to (5). Pub. L. 109–304 added pars (3) to (5) and struck out former pars. (3) to (5) which read as follows:

''(3) The Act of March 3, 1925 (46 App. U.S.C. 781–790; popularly known as the Public Vessels Act).

''(4) The Act of March 9, 1920 (46 App. U.S.C. 741–752; popularly known as the Suits in Admiralty Act).

''(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).''

2004—Subsec. (d). Pub. L. 108–293 added subsec. (d).

1996—Pub. L. 104–324 inserted ''of the Coast Guard Auxiliary'' after ''Administration'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''The Coast Guard Auxiliary established on February 19, 1941, is a nonmilitary organization administered by the Commandant under the direction of the Secretary.''

USE OF COAST GUARD AUXILIARY

Pub. L. 99–640, § 9, Nov. 10, 1986, 100 Stat. 3548, provided that:

''(a) It is the sense of the Congress that the Coast Guard Auxiliary performs a broad range of services in behalf of the safety and security of the American people, and that the continued strength and vitality of the Coast Guard Auxiliary is important to the United States.

''(b)(1) The Secretary of Transportation shall investigate and submit to the Congress a report within 1 year after the date of enactment of this Act [Nov. 10, 1986] regarding—

''(A) the extent to which membership of the Coast Guard Auxiliary has declined in recent years and the causes of such decline;

''(B) the effect, if any, on the maritime community of any such decline in the performance levels of the Coast Guard Auxiliary in the areas of life-saving, assistance to persons in distress, safety patrols and inspections, and support missions for the Coast Guard; and

''(C) the effect, if any, of the Coast Guard's nonemergency assistance policy on the overall effectiveness of the Coast Guard Auxiliary.

''(2) The report submitted by the Secretary under this section shall include such recommendations for legislative and administrative action as the Secretary considers appropriate to achieve and maintain the Coast Guard Auxiliary at its optimum strength.''

§ 822. Purpose of the Coast Guard Auxiliary

The purpose of the Auxiliary is to assist the Coast Guard as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.

(Aug. 4, 1949, ch. 393, 63 Stat. 555; Pub. L. 104–324, title IV, § 402(a), Oct. 19, 1996, 110 Stat. 3923.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 261 (Feb. 19, 1941, ch. 8, title I, § 2, 55 Stat. 9; Sept. 30, 1944, ch. 453, § 1, 58 Stat. 759).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1996—Pub. L. 104–324 inserted ''of the Coast Guard Auxiliary'' after ''Purpose'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''The purpose of the Auxiliary is to assist the Coast Guard:

''(a) to promote safety and to effect rescues on and over the high seas and on navigable waters;

''(b) to promote efficiency in the operation of motorboats and yachts;

''(c) to foster a wider knowledge of, and better compliance with, the laws, rules, and regulations governing the operation of motorboats and yachts; and

''(d) to facilitate other operations of the Coast Guard.''

§ 823. Eligibility, enrollments

The Auxiliary shall be composed of citizens of the United States and its territories and possessions, who are owners, sole or part, of motorboats, yachts, aircraft, or radio stations or who by reason of their special training or experience are deemed by the Commandant to be qualified for duty in the Auxiliary, and who may be enrolled therein pursuant to applicable regulations.

(Aug. 4, 1949, ch. 393, 63 Stat. 555.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., §§ 262, 351 (Feb. 19, 1941, ch. 8, title I, § 3, title III, § 301, 55 Stat. 9, 13; Oct. 26, 1942, ch. 628, 56 Stat. 990; Sept. 30, 1944, ch. 453, § 2, 58 Stat. 760).

All reference to the Philippine Islands is eliminated.

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 823a. Members of the Auxiliary; status

(a) Except as otherwise provided in this chapter, a member of the Coast Guard Auxiliary shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, Federal employee benefits, ethics, conflicts of interest, and other similar criminal or civil statutes and regulations governing the conduct of Federal employees. However, nothing in this subsection shall constrain the Commandant from prescribing standards for the conduct and behavior of members of the Auxiliary.

(b) A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:

(1) Chapter 26[1] of title 28 (popularly known as the Federal Tort Claims Act).

(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).

(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).

(5) Chapter 311 of title 46 (known as the Public Vessels Act).

(6) Other matters related to noncontractual civil liability.

(7) Compensation for work injuries under chapter 81 of title 5.

(8) The resolution of claims relating to damage to or loss of personal property of the member incident to service under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721).[1]

(9) On or after January 1, 2001, section 651 of Public Law 104–208.

(c) A member of the Auxiliary, while assigned to duty, shall be deemed to be a person acting

[1] So in original. Probably should be 171.

under an officer of the United States or an agency thereof for purposes of section 1442(a)(1) of title 28.

(Added Pub. L. 104–324, title IV, § 403(a), Oct. 19, 1996, 110 Stat. 3923; amended Pub. L. 107–295, title IV, § 415, Nov. 25, 2002, 116 Stat. 2121; Pub. L. 109–304, § 17(c), Oct. 6, 2006, 120 Stat. 1707.)

REFERENCES IN TEXT

The Military Personnel and Civilian Employees' Claims Act of 1964, referred to in subsec. (b)(8), is Pub. L. 88–558, Aug. 31, 1964, 78 Stat. 767, as amended, which enacted sections 240 to 243 of former Title 31, Money and Finance, amended section 2735 of Title 10, Armed Forces, and repealed section 490 of this title and section 2732 of Title 10, and which was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068, the first section of which enacted Title 31, Money and Finance. For disposition of sections of former Title 31 into revised Title 31, see Table preceding section 101 of Title 31. For complete classification of this Act to the Code, see Tables.

Section 651 of Public Law 104–208, referred to in subsec. (b)(9), is section 101(f) [title VI, § 651] of Pub. L. 104–208, which is set out as a note under section 8133 of Title 5, Government Organization and Employees.

AMENDMENTS

2006—Subsec. (b)(3) to (5). Pub. L. 109–304 added pars (3) to (5) and struck out former pars. (3) to (5) which read as follows:

''(3) The Act of March 3, 1925 (46 App. U.S.C. 781–790; popularly known as the Public Vessels Act).

''(4) The Act of March 9, 1920 (46 App. U.S.C. 741–752; popularly known as the Suits in Admiralty Act).

''(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).''

2002—Subsec. (b)(9). Pub. L. 107–295 added par. (9).

§ 824. Disenrollment

Members of the Auxiliary may be disenrolled pursuant to applicable regulations.

(Aug. 4, 1949, ch. 393, 63 Stat. 555.)

HISTORICAL AND REVISION NOTES

Experience has shown that it is desirable to have a statute definitely providing for separation of Auxiliarists from the organization. 81st Congress, House Report No. 557.

§ 825. Membership in other organizations

Members of the Auxiliary may be appointed or enlisted in the Reserve, pursuant to applicable regulations, and membership in the Auxiliary shall not be a bar to membership in any other naval or military organization.

(Aug. 4, 1949, ch. 393, 63 Stat. 555.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 264 (Feb. 19, 1941, ch. 8, title I, § 5, 55 Stat. 10).

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 826. Use of member's facilities

(a) MOTOR BOATS, YACHTS, AIRCRAFT, AND RADIO STATIONS.—The Coast Guard may utilize for any purpose incident to carrying out its functions and duties as authorized by the Secretary any motorboat, yacht, aircraft, or radio station placed at its disposition for any of such purposes by any member of the Auxiliary, by any corporation, partnership, or association, or by any State or political subdivision thereof.

(b) MOTOR VEHICLES.—The Coast Guard may utilize to carry out its functions and duties as authorized by the Secretary any motor vehicle (as defined in section 154 of title 23, United States Code) placed at its disposition by any member of the Auxiliary, by any corporation, partnership, or association, or by any State or political subdivision thereof, to tow Federal Government property.

(Aug. 4, 1949, ch. 393, 63 Stat. 555; Aug. 3, 1950, ch. 536, § 35, 64 Stat. 408; Pub. L. 109–241, title II, § 208(a), July 11, 2006, 120 Stat. 522.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 265 (Feb. 19, 1941, ch. 8, title I, § 6, 55 Stat. 10; Nov. 23, 1942, ch. 639, § 2(1), 56 Stat. 1021; Sept. 30, 1944, ch. 453, § 3, 58 Stat. 760).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

2006—Pub. L. 109–241 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1950—Act Aug. 3, 1950, struck out comma after ''Secretary'' and substituted ''any'' for ''and'' after ''Secretary''.

§ 827. Vessel deemed public vessel

While assigned to authorized Coast Guard duty, any motorboat or yacht shall be deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law.

(Aug. 4, 1949, ch. 393, 63 Stat. 555; Pub. L. 104–324, title IV, § 406, Oct. 19, 1996, 110 Stat. 3924.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 266 (Feb. 19, 1941, ch. 8, title I, § 7, 55 Stat. 10).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1996—Pub. L. 104–324 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''Any motorboat or yacht, while assigned to authorized Coast Guard duty shall be deemed to be a public vessel of the United States, and within the meaning of section 646 of this title shall be deemed to be a vessel of the Coast Guard.''

§ 828. Aircraft deemed public aircraft

While assigned to authorized Coast Guard duty, any aircraft shall be deemed to be a Coast Guard aircraft, a public vessel of the United States, and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law. Subject to the provisions of sections 823a and 831 of this title, while assigned to duty, qualified Auxiliary pilots shall be deemed to be Coast Guard pilots.

(Aug. 4, 1949, ch. 393, 63 Stat. 556; Pub. L. 104–324, title IV, § 407, Oct. 19, 1996, 110 Stat. 3925.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 266a (Feb. 19, 1941, ch. 8, title I, § 7A, as added Sept. 30, 1944, ch. 453, § 4, 58 Stat. 760).

The last clause of said section is eliminated because it might be construed to exempt planes of members from being licensed according to law.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1996—Pub. L. 104–324 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''Any aircraft, while assigned to authorized Coast Guard duty shall be deemed to be a vessel of the Coast Guard within the meaning of section 646 of this title.''

§ 829. Radio station deemed government station

Any radio station, while assigned to authorized Coast Guard duty shall be deemed to be a radio station of the Coast Guard and a ''government station'' within the meaning of section 305 of the Communications Act of 1934 (47 U.S.C. 305).

(Aug. 4, 1949, ch. 393, 63 Stat. 556; Pub. L. 94–546, § 1(38), Oct. 18, 1976, 90 Stat. 2522; Pub. L. 99–640, § 10(a)(8), Nov. 10, 1986, 100 Stat. 3549.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 266b (Feb. 19, 1941, ch. 8, title I, § 7B, as added Sept. 30, 1944, ch. 453, § 4, 58 Stat. 760).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1986—Pub. L. 99–640 substituted ''section'' for ''Section''.

1976—Pub. L. 94–546 substituted ''Section 305 of the Communications Act of 1934 (47 U.S.C. 305)'' for ''chapter 5, of Title 47''.

§ 830. Availability of appropriations

(a) Appropriations of the Coast Guard shall be available for the payment of actual necessary traveling expense and subsistence, or commutation of ration allowance in lieu of subsistence, of members of the Auxiliary assigned to authorized duties and for actual necessary expenses of operation of any motorboat, yacht, aircraft, radio station, or motorized vehicle utilized under section 826(b) when assigned to Coast Guard duty, but shall not be available for the payment of compensation for personal services, incident to such operation, other than to personnel of the Coast Guard or the Reserve. The term ''actual necessary expenses of operation,'' as used in this section, shall include payment for fuel, oil, power, water, supplies, provisions, replacement or repair of equipment, repair of any damaged motorboat, yacht, aircraft, radio station, or motorized vehicle utilized under section 826(b) and for the constructive or actual loss of any motorboat, yacht, aircraft, radio station, or motorized vehicle utilized under section 826(b) where it is determined, under applicable regulations, that responsibility for the loss or damage necessitating such replacement or repair of equipment, or for the damage or loss, constructive or actual, of such motorboat, yacht, aircraft, radio station, or motorized vehicle utilized under section 826(b) rests with the Coast Guard.

(b) The Secretary may pay interest on a claim under this section in any case in which a payment authorized under this section is not made within 60 days after the submission of the claim in a manner prescribed by the Secretary. The rate of interest for purposes of this section shall be the annual rate established under section 6621 of the Internal Revenue Code of 1954.[1]

(Aug. 4, 1949, ch. 393, 63 Stat. 556; Pub. L. 99–640, § 8, Nov. 10, 1986, 100 Stat. 3548; Pub. L. 104–324, title IV, § 404(a), Oct. 19, 1996, 110 Stat. 3924; Pub. L. 109–241, title II, § 208(b), July 11, 2006, 120 Stat. 522.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 267 (Feb. 19, 1941, ch. 8, title I, § 8, 55 Stat. 10; June 6, 1942, ch. 385, § 1(1), 56 Stat. 329; Sept. 30, 1944, ch. 449, § 2, 58 Stat. 757; Sept. 30, 1944, ch. 453, § 5, 58 Stat. 760).

Changes were made in phraseology. 81st Congress, House Report No. 557.

REFERENCES IN TEXT

Section 6621 of the Internal Revenue Code of 1954, referred to in subsec. (b), was redesignated section 6621 of the Internal Revenue Code of 1986 by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, and is classified to section 6621 of Title 26, Internal Revenue Code.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–241 substituted ''radio station, or motorized vehicle utilized under section 826(b)'' for ''or radio station'' wherever appearing.

1996—Subsec. (a). Pub. L. 104–324 struck out ''specific'' after ''authorized''.

1986—Pub. L. 99–640 designated existing provisions as subsec. (a) and added subsec. (b).

§ 831. Assignment and performance of duties

No member of the Auxiliary, solely by reason of such membership, shall be vested with, or exercise, any right, privilege, power, or duty vested in or imposed upon the personnel of the Coast Guard or the Reserve, except that any such member may, under applicable regulations, be assigned duties, which, after appropriate training and examination, he has been found competent to perform, to effectuate the purposes of the Auxiliary. No member of the Auxiliary shall be placed in charge of a motorboat, yacht, aircraft, or radio station assigned to Coast Guard duty unless he has been specifically designated by authority of the Commandant to perform such duty. Members of the Auxiliary, when assigned to duties as herein authorized shall, unless otherwise limited by the Commandant, be vested with the same power and authority, in the execution of such duties, as members of the regular Coast Guard assigned to similar duty. When any member of the Auxiliary is assigned to such duty he may, pursuant to regulations issued by the Secretary, be paid actual necessary traveling expenses, including a per diem allowance in conformity with standardized Government travel regulations in lieu of subsistence, while traveling and while on duty away from his home. No per diem shall be paid for any period during which quarters and subsistence in kind are furnished by the Government, and no per diem shall be paid for any period while such member is performing duty on a vessel.

(Aug. 4, 1949, ch. 393, 63 Stat. 556; Pub. L. 104–324, title IV, § 404(b), Oct. 19, 1996, 110 Stat. 3924.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 268 (Feb. 19, 1941, ch. 8, title I, § 9, 55 Stat. 10; July 11, 1941, ch. 290, § 10(1), 55 Stat. 587; Sept. 30, 1944, ch. 453, § 6, 58 Stat. 761).

[1] See References in Text note below.

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1996—Pub. L. 104–324 struck out ''specific'' after ''be assigned'' and after ''when assigned to''.

§ 832. Injury or death in line of duty

When any member of the Auxiliary is physically injured or dies as a result of physical injury incurred while performing any duty to which he has been assigned by competent Coast Guard authority, such member or his beneficiary shall be entitled to the same benefits provided for temporary members of the Reserve who suffer physical injury or death resulting from physical injury incurred incident to service. Members of the Auxiliary who incur physical injury or contract sickness or disease while performing any duty to which they have been assigned by competent Coast Guard authority shall be entitled to the same hospital treatment afforded members of the Coast Guard. The performance of a duty as the term is used in this section includes time engaged in traveling back and forth between the place of assigned duty and the permanent residence of a member of the Auxiliary.

(Aug. 4, 1949, ch. 393, 63 Stat. 556; Pub. L. 93–283, § 1(15), May 14, 1974, 88 Stat. 141; Pub. L. 98–557, § 15(a)(3)(D), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 104–324, title IV, § 404(c), Oct. 19, 1996, 110 Stat. 3924.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 270 (Feb. 19, 1941, ch. 8, title I, § 11, as added Sept. 30, 1944, ch. 453, § 7, 58 Stat. 761).

Changes were made in phraseology. 81st Congress, House Report No. 557.

AMENDMENTS

1996—Pub. L. 104–324 struck out ''specific'' after ''performing any'' in two places and after ''performance of a''.

1984—Pub. L. 98–557 substituted reference to members for reference to officers and enlisted men after ''treatment afforded''.

1974—Pub. L. 93–283 included time engaged in traveling back and forth between the place of assigned duty and the permanent residence of a member of the Auxiliary as the performance of a specific duty.

CHAPTER 25—GENERAL PROVISIONS FOR COAST GUARD RESERVE AND AUXILIARY

Sec.
891. Flags; pennants; uniforms and insignia.
892. Penalty.
893. Limitation on rights of members of the Auxiliary and temporary members of the Reserve.
894. Availability of facilities and appropriations.

§ 891. Flags; pennants; uniforms and insignia

The Secretary may prescribe one or more suitable distinguishing flags, pennants, or other identifying insignia to be displayed by the motorboats, yachts, aircraft, and radio stations owned by members of the Auxiliary and one or more suitable insignia which may be worn by members of the Reserve or the Auxiliary, and may prescribe one or more suitable uniforms which may be worn by members of the Auxiliary. Such flags, pennants, uniforms, and insignia may be furnished by the Coast Guard at actual cost, and the proceeds received therefor shall be credited to current appropriations from which purchase of these articles is authorized.

(Aug. 4, 1949, ch. 393, 63 Stat. 557.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 352 (Feb. 19, 1941, ch. 8, title III, § 302, 55 Stat. 13; Sept. 30, 1944, ch. 453, § 9, 58 Stat. 761).

Said section has been divided. The first two sentences are placed in this section. The last sentence is placed in section 892 of this title.

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 892. Penalty

Whoever, without proper authority, flies from any building, aircraft, motorboat, yacht, or other vessel, any flag or pennant or displays any identifying insignia or wears any uniform or insignia of the Reserve or the Auxiliary shall be fined not more than $500.

(Aug. 4, 1949, ch. 393, 63 Stat. 557.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 352 (Feb. 19, 1941, ch. 8, title III, § 302, 55 Stat. 13; Sept. 30, 1944, ch. 453, § 9, 58 Stat. 761).

Said section has been divided. The last sentence is placed in this section. The first two sentences are placed in section 891 of this title. 81st Congress, House Report No. 557.

§ 893. Limitation on rights of members of the Auxiliary and temporary members of the Reserve

Members of the Auxiliary and temporary members of the Reserve shall be entitled only to such rights, privileges, and benefits as are specifically set forth for them in this title or as may be specifically provided for them in any other Act of Congress. Any Act of Congress which grants rights, privileges, or benefits generally to military personnel, or among others, to personnel of the Coast Guard and the Coast Guard Reserve, without specifically granting such rights, privileges, or benefits to members of the Auxiliary or temporary members of the Reserve, shall not be deemed applicable to members of the Auxiliary or to temporary members of the Reserve.

(Aug. 4, 1949, ch. 393, 63 Stat. 557.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 271 (Feb. 19, 1941, ch. 8, title I, § 12, as added Sept. 30, 1944, ch. 453, § 8, 58 Stat. 761).

Temporary members of the Reserve are included within the provisions of this section.

Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 894. Availability of facilities and appropriations

The services and facilities of and appropriations for the Coast Guard shall be available to effectuate the purposes of the Reserve and the Auxiliary.

(Aug. 4, 1949, ch. 393, 63 Stat. 557.)

HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 354 (Feb. 19, 1941, ch. 8, title III, § 304, 55 Stat. 14).

Changes were made in phraseology. 81st Congress, House Report No. 557.