

(b) A preference eligible who prevails in an action under section 3330a or 3330b shall be awarded reasonable attorney fees, expert witness fees, and other litigation expenses.

(Added Pub. L. 105-339, §3(a), Oct. 31, 1998, 112 Stat. 3184.)

SUBCHAPTER II—OATH OF OFFICE

§ 3331. Oath of office

An individual, except the President, elected or appointed to an office of honor or profit in the civil service or uniformed services, shall take the following oath: “I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.” This section does not affect other oaths required by law.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 424.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 16.	R.S. §1757. May 13, 1884, ch. 46, §§2, 3, 23 Stat. 22.

All but the quoted language in R.S. §1757 is omitted as obsolete since R.S. §1757 was originally an alternative oath to the oath prescribed in R.S. §1756 which oath was repealed by the Act of May 13, 1884, ch. 46, §2, 23 Stat. 22. The words “An individual, except the President, . . . in the civil service or uniformed services” are substituted for “any person . . . either in the civil, military, or naval service, except the President of the United States”. The second sentence of former section 16 is changed to read, “This section does not affect other oaths required by law.”.

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

§ 3332. Officer affidavit; no consideration paid for appointment

An officer, within 30 days after the effective date of his appointment, shall file with the oath of office required by section 3331 of this title an affidavit that neither he nor anyone acting in his behalf has given, transferred, promised, or paid any consideration for or in the expectation or hope of receiving assistance in securing the appointment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 424.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 21a.	Dec. 11, 1926, ch. 4, §1, 44 Stat. 918. Mar. 2, 1927, ch. 284, 44 Stat. 1346. Sept. 23, 1950, ch. 1010, §10, 64 Stat. 987.

The section is restated for clarity and conciseness. The term “officer” is coextensive with and substituted

for “Each individual appointed hereafter as a civil officer of the United States by the President, by and with the advice and consent of the Senate, or by the President alone, or by a court of law, or by the head of a department” in view of the definition of “officer” in section 2104.

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

§ 3333. Employee affidavit; loyalty and striking against the Government

(a) Except as provided by subsection (b) of this section, an individual who accepts office or employment in the Government of the United States or in the government of the District of Columbia shall execute an affidavit within 60 days after accepting the office or employment that his acceptance and holding of the office or employment does not or will not violate section 7311 of this title. The affidavit is prima facie evidence that the acceptance and holding of office or employment by the affiant does not or will not violate section 7311 of this title.

(b) An affidavit is not required from an individual employed by the Government of the United States or the government of the District of Columbia for less than 60 days for sudden emergency work involving the loss of human life or the destruction of property. This subsection does not relieve an individual from liability for violation of section 7311 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 424.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118q.	Aug. 9, 1955, ch. 690, §2, 69 Stat. 624.
.....	[Uncodified].	June 29, 1956, ch. 479, §3 (as applicable to the Act of Aug. 9, 1955, ch. 690, §2, 69 Stat. 624), 70 Stat. 453.

The section is restated for clarity and to conform to the style of section 3332.

In subsection (a), the words “after August 9, 1955” are omitted as executed. The words “if the affidavit is executed prior to acceptance of such office or employment” are omitted as unnecessary. The words “From and after July 1, 1956”, appearing in the Act of June 29, 1956, are omitted as executed.

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

SUBCHAPTER III—DETAILS, VACANCIES, AND APPOINTMENTS

AMENDMENTS

1998—Pub. L. 105-277, div. C, title I, §151(c)(2), Oct. 21, 1998, 112 Stat. 2681-616, substituted “DETAILS, VACANCIES, AND APPOINTMENTS” for “DETAILS” as subchapter heading.

ANNUAL REPORT TO CONGRESS ON EMPLOYEES OR MEMBERS OF ARMED SERVICES DETAILED TO EXECUTIVE AGENCIES; EXEMPTIONS

Pub. L. 103-329, title VI, §619, Sept. 30, 1993, 108 Stat. 2420, which directed each Executive agency detailing personnel submit an annual report to Senate and House Committees on Appropriations on all employees or members of armed services detailed to Executive agencies, listing grade, position, and offices of each person detailed and agency to which each such person was de-

tailed, with exemptions for certain intelligence agencies, terminated, effective May 15, 2000, 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 151 of House Document No. 103-7. Similar provisions were contained in the following prior appropriations acts:

- Pub. L. 103-123, title VI, §617, Oct. 28, 1993, 107 Stat. 1263.
- Pub. L. 102-393, title VI, §619, Oct. 6, 1992, 106 Stat. 1769; repealed by Pub. L. 104-66, title III, §3001(h), Dec. 21, 1995, 109 Stat. 734.
- Pub. L. 102-141, title VI, §619, Oct. 28, 1991, 105 Stat. 871.
- Pub. L. 101-509, title VI, §616, Nov. 5, 1990, 104 Stat. 1474.
- Pub. L. 101-136, title VI, §616, Nov. 3, 1989, 103 Stat. 819.
- Pub. L. 100-440, title VI, §616, Sept. 22, 1988, 102 Stat. 1754.
- Pub. L. 100-202, §101(m) [title VI, §621], Dec. 22, 1987, 101 Stat. 1329-390, 1329-427.

§ 3341. Details; within Executive or military departments

(a) The head of an Executive department or military department may detail employees among the bureaus and offices of his department, except employees who are required by law to be exclusively engaged on some specific work.

(b)(1) Details under subsection (a) of this section may be made only by written order of the head of the department, and may be for not more than 120 days. These details may be renewed by written order of the head of the department, in each particular case, for periods not exceeding 120 days.

(2) The 120-day limitation in paragraph (1) for details and renewals of details does not apply to the Department of Defense in the case of a detail—

(A) made in connection with the closure or realignment of a military installation pursuant to a base closure law or an organizational restructuring of the Department as part of a reduction in the size of the armed forces or the civilian workforce of the Department; and

(B) in which the position to which the employee is detailed is eliminated on or before the date of the closure, realignment, or restructuring.

(c) For purposes of this section, the term “base closure law” has the meaning given such term in section 101(a)(17) of title 10.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 424; Pub. L. 104-106, div. A, title X, §1033(a), Feb. 10, 1996, 110 Stat. 429; Pub. L. 109-163, div. A, title X, §1056(a)(4), Jan. 6, 2006, 119 Stat. 3439.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 38.	R.S. §166. May 28, 1896, ch. 252, §3, 29 Stat. 179.

The words “Executive department” are substituted for “department” as the definition of “department” applicable to this section is coextensive with the definition of “Executive department” in section 101.

The words “or military department” are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of

1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser’s note for section 301.

The word “detail” is coextensive with and is substituted for “alter the distribution”. The word “clerks” is omitted as included in “employees”. The words “as he may find it necessary and proper to do” and “from time to time” are omitted as surplusage.

This section was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, §201(d), as added Aug. 10, 1949, ch. 412, §4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides “Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense” is omitted from this title but is not repealed.

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

AMENDMENTS

2006—Subsec. (c). Pub. L. 109-163 amended subsec. (c) generally. Prior to amendment, subsec. (c) defined the terms “base closure law” and “military installation” for purposes of this section.

1996—Subsec. (b). Pub. L. 104-106 designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 104-106, §1033(a)(2), added subsec. (c).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1033(b) of Pub. L. 104-106 provided that: “The amendments made by subsection (a) [amending this section] apply to details made before the date of the enactment of this Act [Feb. 10, 1996] but still in effect on that date and details made on or after that date.”

TRANSFER OF APPROPRIATED FUNDS; FUNDING OF DETAILED EMPLOYEES

For restriction on availability of funds for salaries of employees reassigned on temporary detail basis to another position without independent approval by head of employing department or agency, see section 515(3) of Pub. L. 103-333, set out as a note under section 1301 of Title 31, Money and Finance.

[§ 3342. Repealed. Pub. L. 102-378, §2(13)(A), Oct. 2, 1992, 106 Stat. 1347]

Section, added Pub. L. 101-416, §2(a)(1), Oct. 12, 1990, 104 Stat. 902, related to Federal participants in executive exchange programs.

A prior section 3342, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 425, which prohibited details of employees from field service to Executive department in District of Columbia except for temporary duty, details specifically provided for by law, or detailing of one employee from Bureau of Customs for duty in District of Columbia, was repealed by Pub. L. 89-762, §1(a), Nov. 5, 1966, 80 Stat. 1312.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1991, see section 9(b)(3) of Pub. L. 102-378, set out as an Effective Date of 1992 Amendment note under section 6303 of this title.

§ 3343. Details; to international organizations

(a) For the purpose of this section—

(1) "agency", "employee", and "international organization" have the meanings given them by section 3581 of this title; and

(2) "detail" means the assignment or loan of an employee to an international organization without a change of position from the agency by which he is employed to an international organization.

(b) The head of an agency may detail, for a period of not more than 5 years, an employee of his agency to an international organization which requests services, except that under special circumstances, where the President determines it to be in the national interest, he may extend the 5-year period for up to an additional 3 years.

(c) An employee detailed under subsection (b) of this section is deemed, for the purpose of preserving his allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed, and he is entitled to pay, allowances, and benefits from funds available to that agency. The authorization and payment of these allowances and other benefits from appropriations available therefor is deemed to comply with section 5536 of this title.

(d) Details may be made under subsection (b) of this section—

(1) without reimbursement to the United States by the international organization; or

(2) with agreement by the international organization to reimburse the United States for all or part of the pay, travel expenses, and allowances payable during the detail, and the reimbursement shall be credited to the appropriation, fund, or account used for paying the amounts reimbursed.

(e) An employee detailed under subsection (b) of this section may be paid or reimbursed by an international organization for allowances or expenses incurred in the performance of duties required by the detail, without regard to section 209 of title 18.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 425; Pub. L. 91-175, pt. V, §502(a), Dec. 30, 1969, 83 Stat. 825.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(a)	5 U.S.C. 2331.	Aug. 28, 1958, Pub. L. 85-795, § 2, 72 Stat. 959.
(b)-(e)	5 U.S.C. 2332.	Aug. 28, 1958, Pub. L. 85-795, § 3, 72 Stat. 959.

In subsection (a)(2), the words "without a change of position from the agency by which he is employed to an international organization" are substituted for "without the employee's transfer from the Federal agency by which he is employed" to eliminate the necessity of carrying into this section the definition of "transfer" appearing in former section 2331(5).

In subsection (e), the words "section 209 of title 18" are substituted for "section 1914 of title 18" on authority of the Act of Oct. 23, 1962, Pub. L. 87-849, § 2, 76 Stat. 1126.

Other definitions appearing in former section 2331 are omitted from this section as inappropriate but are carried into section 3581.

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

AMENDMENTS

1969—Subsec. (b). Pub. L. 91-175 substituted "5" for "3" and inserted provision enabling President, regard-

ing an agency employee detailed to an international organization for 5 years, to extend the 5-year period for up to an additional 3 years.

DETAILS TO INTERNATIONAL ORGANIZATIONS

For provisions concerning the providing for details of Federal employees to international organizations and the delegation of Presidential authority, concerning the extension of a detail under this section, to the Secretary of State, see Ex. Ord. No. 11552, Aug. 24, 1970, 35 F.R. 13569, set out as a note under section 3584 of this title.

§ 3344. Details; administrative law judges

An agency as defined by section 551 of this title which occasionally or temporarily is insufficiently staffed with administrative law judges appointed under section 3105 of this title may use administrative law judges selected by the Office of Personnel Management from and with the consent of other agencies.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 425; Pub. L. 95-251, §2(a)(1), (b)(2), Mar. 27, 1978, 92 Stat. 183; Pub. L. 95-454, title IX, §906(a)(2), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 1010 (4th sentence).	June 11, 1946, ch. 324, §11 (4th sentence), 60 Stat. 244.

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

AMENDMENTS

1978—Pub. L. 95-454 substituted "Office of Personnel Management" for "Civil Service Commission".

Pub. L. 95-251 substituted references to administrative law judges for references to hearing examiners in section catchline and wherever appearing in text.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

§ 3345. Acting officer

(a) If an officer of an Executive agency (including the Executive Office of the President, and other than the Government Accountability Office) whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate, dies, resigns, or is otherwise unable to perform the functions and duties of the office—

(1) the first assistant to the office of such officer shall perform the functions and duties of the office temporarily in an acting capacity subject to the time limitations of section 3346;

(2) notwithstanding paragraph (1), the President (and only the President) may direct a person who serves in an office for which appointment is required to be made by the President, by and with the advice and consent of the Senate, to perform the functions and duties of the vacant office temporarily in an acting capacity subject to the time limitations of section 3346; or

(3) notwithstanding paragraph (1), the President (and only the President) may direct an

officer or employee of such Executive agency to perform the functions and duties of the vacant office temporarily in an acting capacity, subject to the time limitations of section 3346, if—

(A) during the 365-day period preceding the date of death, resignation, or beginning of inability to serve of the applicable officer, the officer or employee served in a position in such agency for not less than 90 days; and

(B) the rate of pay for the position described under subparagraph (A) is equal to or greater than the minimum rate of pay payable for a position at GS-15 of the General Schedule.

(b)(1) Notwithstanding subsection (a)(1), a person may not serve as an acting officer for an office under this section, if—

(A) during the 365-day period preceding the date of the death, resignation, or beginning of inability to serve, such person—

(i) did not serve in the position of first assistant to the office of such officer; or

(ii) served in the position of first assistant to the office of such officer for less than 90 days; and

(B) the President submits a nomination of such person to the Senate for appointment to such office.

(2) Paragraph (1) shall not apply to any person if—

(A) such person is serving as the first assistant to the office of an officer described under subsection (a);

(B) the office of such first assistant is an office for which appointment is required to be made by the President, by and with the advice and consent of the Senate; and

(C) the Senate has approved the appointment of such person to such office.

(c)(1) Notwithstanding subsection (a)(1), the President (and only the President) may direct an officer who is nominated by the President for reappointment for an additional term to the same office in an Executive department without a break in service, to continue to serve in that office subject to the time limitations in section 3346, until such time as the Senate has acted to confirm or reject the nomination, notwithstanding adjournment sine die.

(2) For purposes of this section and sections 3346, 3347, 3348, 3349, 3349a, and 3349d, the expiration of a term of office is an inability to perform the functions and duties of such office.

(Added Pub. L. 105-277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681-611; amended Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a)(3)(B), is set out under section 5332 of this title.

PRIOR PROVISIONS

A prior section 3345, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 425; Pub. L. 100-398, §7(a)(1), (2), Aug. 17, 1988, 102 Stat. 988, provided for details to office of head of Executive agency or military department, prior to repeal by Pub. L. 105-277, div. C, title I, §151(b), (d)(1), Oct. 21, 1998, 112 Stat. 2681-611, 2681-616, effective 30 days after Oct. 21, 1998.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in introductory provisions.

EFFECTIVE DATE

Pub. L. 105-277, div. C, title I, §151(d), Oct. 21, 1998, 112 Stat. 2681-616, provided that:

“(1) EFFECTIVE DATE.—Subject to paragraph (2), this section [enacting this section and sections 3346 to 3349d of this title, repealing former sections 3345 to 3349 of this title, and enacting provisions set out as a note under section 3301 of this title] and the amendments made by this section shall take effect 30 days after the date of enactment of this section [Oct. 21, 1998].

“(2) APPLICATION.—

“(A) IN GENERAL.—This section shall apply to any office that becomes vacant after the effective date of this section.

“(B) IMMEDIATE APPLICATION OF TIME LIMITATION.—Notwithstanding subparagraph (A), for any office vacant on the effective date of this section, the time limitations under section 3346 of title 5, United States Code (as amended by this section) shall apply to such office. Such time limitations shall apply as though such office first became vacant on the effective date of this section.

“(C) CERTAIN NOMINATIONS.—If the President submits to the Senate the nomination of any person after the effective date of this section for an office for which such person had been nominated before such date, the next nomination of such person after such date shall be considered a first nomination of such person to that office for purposes of sections 3345 through 3349 and section 3349d of title 5, United States Code (as amended by this section).”

ORDER OF SUCCESSION WITHIN DEPARTMENT OF HOMELAND SECURITY

For order of succession within the Department of Homeland Security, see Ex. Ord. No. 13286, §88, Feb. 28, 2003, 68 F.R. 10632, as amended, set out as a note under section 111 of Title 6, Domestic Security.

EXECUTIVE ORDER NO. 10513

Ex. Ord. No. 10513, Jan. 19, 1954, 19 F.R. 369, which designated certain officers of the Department of Labor to act as Secretary of Labor during any period of unavailability of both the Secretary and the Deputy Secretary of Labor, was revoked by Ex. Ord. No. 13245, §4, Dec. 8, 2001, 66 F.R. 66269, set out below.

EXECUTIVE ORDER NO. 11274

Ex. Ord. No. 11274, Mar. 30, 1966, 31 F.R. 5243, as amended by Pub. L. 101-509, title V, §529 [title I, §112(c)], Nov. 5, 1990, 104 Stat. 1427, 1454, which designated certain officers of the Department of Housing and Urban Development to act as Secretary of Housing and Urban Development during any period of unavailability of the Secretary, was revoked by Ex. Ord. No. 13243, §4, Dec. 18, 2001, 66 F.R. 66263, set out below.

EXECUTIVE ORDER NO. 11487

Ex. Ord. No. 11487, Oct. 6, 1969, 34 F.R. 15593, as amended by Pub. L. 101-509, title V, §529 [title I, §112(c)], Nov. 5, 1990, 104 Stat. 1427, 1454, which designated certain officers of the Department of the Interior to act as Secretary of the Interior during any period of unavailability of both the Secretary and the Deputy Secretary of the Interior, was revoked by Ex. Ord. No. 13244, §4, Dec. 18, 2001, 66 F.R. 66267, set out below.

EXECUTIVE ORDER NO. 11822

Ex. Ord. No. 11822, Dec. 10, 1974, 39 F.R. 43275, which designated certain officers of the Department of the Treasury to act as Secretary of the Treasury during any period of unavailability of both the Secretary and

the Deputy Secretary of the Treasury, was revoked by Ex. Ord. No. 13246, § 4, Dec. 18, 2001, 66 F.R. 66270, set out below.

EXECUTIVE ORDER NO. 11880

Ex. Ord. No. 11880, Oct. 2, 1975, 40 F.R. 46089, as amended by Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617; Ex. Ord. No. 12998, Apr. 5, 1996, 61 F.R. 15873, which designated certain officers of the Department of Commerce to act as Secretary of Commerce during any period of unavailability of both the Secretary and the Deputy Secretary of Commerce, was revoked by Ex. Ord. No. 13242, § 4, Dec. 18, 2001, 66 F.R. 66261, set out below.

EXECUTIVE ORDER NO. 11957

Ex. Ord. No. 11957, Jan. 13, 1977, 42 F.R. 3295, which designated certain officers of the Department of Agriculture to act as Secretary of Agriculture during any period of unavailability of both the Secretary and the Deputy Secretary of Agriculture, was revoked by Ex. Ord. No. 13241, § 4, Dec. 18, 2001, 66 F.R. 66259, formerly set out below.

EXECUTIVE ORDER NO. 12343

Ex. Ord. No. 12343, Jan. 27, 1982, 47 F.R. 4225, which designated certain officers of the Department of State to act as Secretary of State during any period of unavailability of both the Secretary and the Deputy Secretary of State, was revoked by Ex. Ord. No. 13251, § 4, Dec. 28, 2001, 67 F.R. 1599, set out below.

EX. ORD. NO. 12879. ORDER OF SUCCESSION OF OFFICERS TO ACT AS SECRETARY OF THE NAVY

Ex. Ord. No. 12879, Nov. 8, 1993, 58 F.R. 59929, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including [former] section 3347 of title 5, United States Code, it is hereby ordered as follows:

SECTION 1. *Succession to the Authority of the Secretary of the Navy.*

(a) In the event of the death, permanent disability, or resignation of the Secretary of the Navy, the incumbents holding the positions designated below, in the order indicated, shall act for and exercise the powers of the Secretary of the Navy:

- (1) The Under Secretary of the Navy.
- (2) The Assistant Secretaries and General Counsel of the Navy, in the order fixed by their length of services as permanent appointees in such positions.
- (3) The Chief of Naval Operations.
- (4) The Commandant of the Marine Corps.

(b) In the event of the temporary absence or temporary disability of the Secretary of the Navy, the incumbents holding the Department of the Navy positions designated in paragraph (a) of this section, in the order indicated, shall act for and exercise the powers of the Secretary of the Navy.

(1) In these instances, the designation of an Acting Secretary of the Navy applies only for the duration of the Secretary's absence or disability, and does not affect the authority of the Secretary to resume the powers of his office upon his return.

(2) In the event that the Secretary of the Navy is merely absent from this position, the Secretary of the Navy may continue to exercise the powers and fulfill the duties of his office during his absence, notwithstanding the provisions of this order.

(c) Precedence among those officers designated in paragraph (a) of this section who have the same date of appointment shall be determined by the Secretary of the Navy at the time that such appointments are made.

(d) Notwithstanding paragraph (a) and (b) of this section, an officer shall not act for or exercise the powers of the Secretary of the Navy under this order if that officer serves only in an acting capacity in the position that would otherwise entitle him to do so.

SEC. 2. *Temporary Nature of Succession.* Succession to act for and exercise the powers of the Secretary of the

Navy pursuant to this order shall be on a temporary or interim basis and shall not have the effect of vacating the statutory appointment held by the successor.

WILLIAM J. CLINTON.

EX. ORD. NO. 12908. ORDER OF SUCCESSION OF OFFICERS TO ACT AS SECRETARY OF THE ARMY

Ex. Ord. No. 12908, Apr. 22, 1994, 59 F.R. 21907, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including [former] section 3347 of title 5, United States Code, it is hereby ordered as follows:

SECTION 1. *Succession To Act as the Secretary of the Army.*

(a) In the event of the death, permanent disability, or resignation of the Secretary of the Army, the incumbents holding the positions designated below, in the order indicated, shall act for and exercise the powers of the Secretary of the Army:

- (1) The Under Secretary of the Army.
- (2) The Assistant Secretaries and General Counsel of the Army, in the order fixed by their length of service as permanent appointees in such positions.
- (3) The Chief of Staff of the Army.

(b) In the event of the absence or temporary disability of the Secretary of the Army, the incumbents holding the Department of the Army positions designated in paragraph (a) of this section, in the order indicated, shall act for and exercise the powers of the Secretary of the Army.

(1) The designation of an Acting Secretary of the Army under this subsection applies only for the duration of the Secretary's absence or disability, and does not affect the authority of the Secretary to resume the powers of the Secretary's office.

(2) When the Secretary of the Army is temporarily absent from the position, the Secretary of the Army may continue to exercise the powers and fulfill the duties of his office during his absence, notwithstanding the provisions of this order.

(c) Precedence among those officers designated in paragraph (a) of this section who have the same date of appointment shall be determined by the Secretary of the Army at the time that such appointments are made.

(d) Notwithstanding paragraphs (a) and (b) of this section, an officer shall not act for or exercise the powers of the Secretary of the Army under this order if that officer serves only in an acting capacity in the position that would otherwise entitle him to do so.

SEC. 2. *Temporary Nature of Succession.* Succession to act for and exercise the powers of the Secretary of the Army pursuant to this order shall be on a temporary or interim basis and shall not have the effect of vacating the statutory appointment held by the successor.

WILLIAM J. CLINTON.

EX. ORD. NO. 12909. ORDER OF SUCCESSION OF OFFICERS TO ACT AS SECRETARY OF THE AIR FORCE

Ex. Ord. No. 12909, Apr. 22, 1994, 59 F.R. 21909, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including [former] section 3347 of title 5, United States Code, it is hereby ordered as follows:

SECTION 1. *Succession To Act as the Secretary of the Air Force.*

(a) In the event of the death, permanent disability, or resignation of the Secretary of the Air Force, the incumbents holding the positions designated below, in the order indicated, shall act for and exercise the powers of the Secretary of the Air Force:

- (1) The Under Secretary of the Air Force.
- (2) The Assistant Secretaries and General Counsel of the Air Force, in the order fixed by their length of service as permanent appointees in such positions.
- (3) The Chief of Staff of the Air Force.

(b) In the event of the absence or temporary disability of the Secretary of the Air Force, the incumbents

holding the Department of the Air Force positions designated in paragraph (a) of this section, in the order indicated, shall act for and exercise the powers of the Secretary of the Air Force.

(1) The designation of an Acting Secretary of the Air Force applies only for the duration of the Secretary's absence or disability, and does not affect the authority of the Secretary to resume the powers of the Secretary's office.

(2) In the event that the Secretary of the Air Force is temporarily absent from the position, the Secretary of the Air Force may continue to exercise the powers and fulfill the duties of his office during the absence, notwithstanding the provisions of this order.

(c) Precedence among those officers designated in paragraph (a) of this section who have the same date of appointment shall be determined by the Secretary of the Air Force at the time that such appointments are made.

(d) Notwithstanding paragraphs (a) and (b) of this section, an officer shall not act for or exercise the powers of the Secretary of the Air Force under this order if that officer serves only in an acting capacity in the position that would otherwise entitle him to do so.

SEC. 2. *Temporary Nature of Succession.* Succession to act for and exercise the powers of the Secretary of the Air Force pursuant to this order shall be on a temporary or interim basis and shall not have the effect of vacating the statutory appointment held by the successor.

WILLIAM J. CLINTON.

EXECUTIVE ORDER NO. 13000

Ex. Ord. No. 13000, Apr. 24, 1996, 61 F.R. 18483, which provided an order of succession of officers to act as Secretary of Defense, was revoked by Ex. Ord. No. 13394, § 5, Dec. 22, 2005, 70 F.R. 76666, formerly set out below.

EXECUTIVE ORDER NO. 13241

Ex. Ord. No. 13241, Dec. 18, 2001, 66 F.R. 66258, as amended by Ex. Ord. No. 13261, § 4(a), Mar. 19, 2002, 67 F.R. 13243; Ex. Ord. No. 13484, §§ 1, 2, Jan. 9, 2009, 74 F.R. 2285, which designated certain officers of the Department of Agriculture to act as Secretary of Agriculture during any period of unavailability of both the Secretary and the Deputy Secretary of Agriculture, was revoked by Ex. Ord. No. 13542, § 3, May 13, 2010, 75 F.R. 27922, set out below.

EX. ORD. NO. 13242. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF COMMERCE

Ex. Ord. No. 13242, Dec. 18, 2001, 66 F.R. 66260, as amended by Ex. Ord. No. 13261, § 4(b), Mar. 19, 2002, 67 F.R. 13243, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Commerce (Secretary) during any period when both the Secretary and the Deputy Secretary of Commerce (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

SEC. 2. *Order of Succession.*

- (a) General Counsel of the Department of Commerce;
- (b) Under Secretary of Commerce for International Trade;
- (c) Under Secretary of Commerce for Economic Affairs;
- (d) Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration;
- (e) Under Secretary of Commerce for Technology;
- (f) Under Secretary of Commerce for Export Administration;
- (g) Chief Financial Officer of the Department of Commerce and Assistant Secretary of Commerce in charge of Administration; and

(h) Assistant Secretary of Commerce in charge of Legislative and Intergovernmental Affairs.

SEC. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(h) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

SEC. 4. Executive Order 11880 of October 2, 1975, Executive Order 12998 of April 5, 1996, and section 26 of Executive Order 12608 of September 9, 1987, are hereby revoked.

GEORGE W. BUSH.

EX. ORD. NO. 13243. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Ex. Ord. No. 13243, Dec. 18, 2001, 66 F.R. 66262, as amended by Ex. Ord. No. 13261, § 4(c), Mar. 19, 2002, 67 F.R. 13244, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Housing and Urban Development (Secretary) during any period when both the Secretary and the Deputy Secretary of Housing and Urban Development (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

SEC. 2. *Order of Succession.*

- (a) General Counsel of the Department of Housing and Urban Development;
- (b) Assistant Secretary of Housing and Urban Development in charge of Housing-Federal Housing Commission;
- (c) Assistant Secretary of Housing and Urban Development in charge of Community, Planning and Development;
- (d) Assistant Secretary of Housing and Urban Development in charge of Public and Indian Housing;
- (e) Assistant Secretary of Housing and Urban Development in charge of Policy Development and Research;
- (f) Assistant Secretary of Housing and Urban Development in charge of Fair Housing and Equal Opportunity;
- (g) Assistant Secretary of Housing and Urban Development in charge of Congressional and Intergovernmental Relations;
- (h) Assistant Secretary of Housing and Urban Development in charge of Administration; and
- (i) Assistant Secretary of Housing and Urban Development in charge of Public Affairs.

SEC. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(i) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

SEC. 4. Executive Order 11274 of March 30, 1996, is hereby revoked.

GEORGE W. BUSH.

EX. ORD. NO. 13244. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF THE INTERIOR

Ex. Ord. No. 13244, Dec. 18, 2001, 66 F.R. 66267, as amended by Ex. Ord. No. 13261, § 4(d), Mar. 19, 2002, 67 F.R. 13244, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of

America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of the Interior (Secretary) during any period when both the Secretary and the Deputy Secretary of the Interior (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

SEC. 2. *Order of Succession.*

- (a) Solicitor of the Department of the Interior;
- (b) Assistant Secretary of the Interior in charge of Policy, Management and Budget;
- (c) Assistant Secretary of the Interior in charge of Land and Minerals Management;
- (d) Assistant Secretary of the Interior in charge of Water and Science;
- (e) Assistant Secretary of the Interior for Fish and Wildlife and Parks; and
- (f) Assistant Secretary of the Interior for Indian Affairs.

SEC. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(f) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

SEC. 4. Executive Order 11487 of October 6, 1969, is hereby revoked.

GEORGE W. BUSH.

EX. ORD. NO. 13245. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF LABOR

Ex. Ord. No. 13245, Dec. 18, 2001, 66 F.R. 66268, as amended by Ex. Ord. No. 13261, §4(e), Mar. 19, 2002, 67 F.R. 13244, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Labor (Secretary) during any period when both the Secretary and the Deputy Secretary of Labor (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

SEC. 2. *Order of Succession.*

- (a) Solicitor of Labor;
- (b) Assistant Secretary of Labor in charge of Administration and Management;
- (c) Assistant Secretary of Labor in charge of Policy;
- (d) Assistant Secretary of Labor in charge of Congressional and Intergovernmental Affairs;
- (e) Assistant Secretary of Labor in charge of the Employment and Training Administration;
- (f) Assistant Secretary of Labor in charge of the Employment Standards Administration;
- (g) Assistant Secretary of Labor in charge of the Pension and Welfare Benefits Administration;
- (h) Assistant Secretary of Labor for Occupational Safety and Health;
- (i) Assistant Secretary of Labor for Mine Safety and Health;
- (j) Assistant Secretary of Labor in charge of the Office of Public Affairs;
- (k) Assistant Secretary of Labor for Veterans' Employment and Training; and
- (l) Assistant Secretary of Labor in charge of the Office of Disability Employment Policy.

SEC. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(l) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

SEC. 4. Executive Order 10513 of January 19, 1954, is hereby revoked.

GEORGE W. BUSH.

EX. ORD. NO. 13246. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF THE TREASURY

Ex. Ord. No. 13246, Dec. 18, 2001, 66 F.R. 66270, as amended by Ex. Ord. No. 13261, §4(f), Mar. 19, 2002, 67 F.R. 13244, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of the Treasury (Secretary) during any period when both the Secretary and the Deputy Secretary of the Treasury (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

SEC. 2. *Order of Succession.*

(a) Under Secretaries of the Treasury (including the Under Secretary of the Treasury for Enforcement), in the order in which they shall have taken the oath of office as such officers;

(b) General Counsel of the Department of the Treasury; and

(c) Deputy Under Secretaries of the Treasury and those Assistant Secretaries of the Treasury appointed by the President by and with the consent of the Senate, in the order in which they shall have taken the oath of office as such officers.

SEC. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(c) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

SEC. 4. Executive Order 11822 of December 10, 1974, is hereby revoked.

GEORGE W. BUSH.

EX. ORD. NO. 13247. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF VETERANS AFFAIRS

Ex. Ord. No. 13247, Dec. 18, 2001, 66 F.R. 66271, as amended by Ex. Ord. No. 13261, §4(g), Mar. 19, 2002, 67 F.R. 13244, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

SEC. 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Veterans Affairs (Secretary) during any period when both the Secretary and the Deputy Secretary of Veterans Affairs (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

SEC. 2. *Order of Succession.*

- (a) Under Secretary of Veterans Affairs for Health;
- (b) Under Secretary of Veterans Affairs for Benefits;
- (c) Under Secretary of Veterans Affairs for Memorial Affairs;
- (d) General Counsel of the Department of Veterans Affairs;
- (e) Assistant Secretaries of Veterans Affairs, in the order in which they shall have taken the oath of office

as Assistant Secretaries, other than the Chief Financial Officer and, if an Assistant Secretary, the Chief Information Officer;

(f) Chief Information Officer of the Department of Veterans Affairs, if the Chief Information Officer is an officer appointed by the President by and with the consent of the Senate;

(g) Chief Financial Officer of the Department of Veterans Affairs; and

(h) Chairman, Board of Veterans' Appeals.

SEC. 3. Exceptions.

(a) No individual who is serving in an office listed in section 2(a)–(h) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

GEORGE W. BUSH.

EXECUTIVE ORDER NO. 13250

Ex. Ord. No. 13250, Dec. 28, 2001, 67 F.R. 1597, as amended by Ex. Ord. No. 13261, §4(h), Mar. 19, 2002, 67 F.R. 13244, which provided an order of succession within the Department of Health and Human Services, was revoked by Ex. Ord. No. 13461, §4, Feb. 15, 2008, 73 F.R. 9438, set out below.

EX. ORD. NO. 13251. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF STATE

Ex. Ord. No. 13251, Dec. 28, 2001, 67 F.R. 1599, as amended by Ex. Ord. No. 13261, §4(i), Mar. 19, 2002, 67 F.R. 13244, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this order, the officers named in section 2, in the order listed, shall act as, and perform the duties of, the office of Secretary of State (Secretary) during any period in which the Secretary has died, resigned, or otherwise become unable to perform the functions and duties of the office of Secretary.

SEC. 2. Order of Succession.

(a) Deputy Secretary of State;

(b) Deputy Secretary of State for Management and Resources;

(c) Under Secretary of State designated for political affairs pursuant to section 2651a(b) of title 22, United States Code;

(d) Under Secretary of State designated for management affairs pursuant to section 2651a(b) of title 22, United States Code;

(e) The remaining Under Secretaries of State, in the order in which they shall have taken the oath of office as such;

(f) Assistant Secretaries of State designated for regional bureaus pursuant to section 2651a(c) of title 22, United States Code, in the order in which they shall have taken the oath of office as such;

(g) The following officers, in the order in which they shall have taken the oath of office as such:

- (1) Remaining Assistant Secretaries of State;
- (2) Coordinator for Counterterrorism;
- (3) Director General of the Foreign Service; and
- (4) Legal Adviser;

(h) United States Representative to the United Nations (New York);

(i) Deputy United States Representative to the United Nations (New York);

(j) The following other United States Representatives to the United Nations (New York), in the order in which they shall have taken the oath of office as such:

- (1) United States Representative to the United Nations for United Nations Management and Reform;
- (2) United States Representative to the United Nations on the Economic and Social Council of the United Nations; and

(3) Alternate United States Representative to the United Nations for Special Political Affairs in the United Nations;

(k) The following Chiefs of Mission, in the order listed:

(1) United States Ambassador to the United Kingdom;

(2) United States Ambassador to Canada;

(3) United States Ambassador to Australia;

(4) United States Ambassador to Mexico;

(5) United States Ambassador to Japan; and

(6) United States Ambassador to India;

(l) The following officers, in the order in which they shall have taken the oath of office as such:

(1) United States Ambassadors at Large;

(2) Counselor; and

(3) Special Representatives of the President; and

(m) The remaining Chiefs of Mission, in the order in which they shall have taken the oath of office as such.

SEC. 3. Exceptions.

(a) No individual who has not been appointed by the President by and with the consent of the Senate shall act as Secretary pursuant to this order.

(b) No individual who is serving in an office listed in section 2(a)–(m) in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(c) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, to depart from this order in designating an acting Secretary.

(d) A successor office, intended to be the equivalent of an office identified in section 2 of this order, shall be deemed to be the position identified in section 2 for purposes of this order.

SEC. 4. Executive Order 12343 of January 27, 1982, is hereby revoked.

GEORGE W. BUSH.

EX. ORD. NO. 13261. PROVIDING AN ORDER OF SUCCESSION IN THE ENVIRONMENTAL PROTECTION AGENCY AND AMENDING CERTAIN ORDERS ON SUCCESSION

Ex. Ord. No. 13261, Mar. 19, 2002, 67 F.R. 13243, as amended by Ex. Ord. No. 13344, July 7, 2004, 69 F.R. 41747, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345, *et seq.*, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of the Administrator of the Environmental Protection Agency (Administrator) during any period when both the Administrator and the Deputy Administrator of the Environmental Protection Agency have died, resigned, or become otherwise unable to perform the functions and duties of the office of Administrator.

SEC. 2. Order of Succession.

(a) Assistant Administrator, Office of Solid Waste;

(b) Assistant Administrator for Toxic Substances;

(c) Assistant Administrator (Air and Radiation).[];

(d) Assistant Administrator (Water Programs);

(e) Assistant Administrator (General Counsel);

(f) Assistant Administrator (Enforcement and Compliance Assurance);

(g) Chief Financial Officer;

(h) Assistant Administrator (Research and Development);

(i) Assistant Administrator (International Activities);

(j) Assistant Administrator (Administration and Resources Management); and

(k) Assistant Administrator (Environmental Information).

SEC. 3. Exceptions.

(a) No individual who is serving in an office listed in section 2(a)–(k) in an acting capacity, by virtue of so serving, shall act as Administrator pursuant to this order.

(b) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, to depart from this order in designating an acting Administrator.

SEC. 4. *Amendments to Certain Executive Orders providing Orders of Succession.* Executive Orders 13241, 13242, 13243, 13244, 13245, 13246, and 13247 of December 18, 2001, and Executive Orders 13250 and 13251 of December 28, 2001, are hereby amended as follows:

(a) [Amended Ex. Ord. No. 13241, formerly set out above;]

(b) [Amended Ex. Ord. No. 13242, set out above;]

(c) [Amended Ex. Ord. No. 13243, set out above;]

(d) [Amended Ex. Ord. No. 13244, set out above;]

(e) [Amended Ex. Ord. No. 13245, set out above;]

(f) [Amended Ex. Ord. No. 13246, set out above;]

(g) [Amended Ex. Ord. No. 13247, set out above;]

(h) [Amended Ex. Ord. No. 13250, formerly set out above; and]

(i) [Amended Ex. Ord. No. 13251, set out above.]

GEORGE W. BUSH.

EX. ORD. NO. 13370. PROVIDING AN ORDER OF SUCCESSION
IN THE OFFICE OF MANAGEMENT AND BUDGET

Ex. Ord. No. 13370, Jan. 13, 2005, 70 F.R. 3137, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America and pursuant to the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

SECTION 1. During any period when the Director of the Office of Management and Budget (Director) and the Deputy Director of the Office of Management and Budget (Deputy Director) have died, resigned, or otherwise become unable to perform the functions and duties of the office of Director, the following officers of the Office of Management and Budget, in the order listed, shall perform the functions and duties of the office of Director, if they are eligible to act as Director under the provisions of the Federal Vacancies Reform Act of 1998, until such time as at least one of the officers mentioned above is able to perform the functions and duties of the office of Director:

Deputy Director for Management;
Executive Associate Director;
Associate Director (National Security Programs);
Associate Director (General Government Programs);
Associate Director (Human Resource Programs);
Associate Director (Natural Resource Programs);
General Counsel;
Administrator for Federal Procurement Policy;
Administrator of the Office of Information and Regulatory Affairs;
Controller, Office of Federal Financial Management; and
Administrator of the Office of Electronic Government.

SEC. 2. *Exceptions.* (a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as Director pursuant to this order.

(b) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by law, to depart from this order in designating an acting Director.

GEORGE W. BUSH.

EXECUTIVE ORDER NO. 13394

Ex. Ord. No. 13394, Dec. 22, 2005, 70 F.R. 76665, which provided an order of succession of officers to act as Secretary of Defense, was revoked by Ex. Ord. No. 13533, § 3, Mar. 1, 2010, 75 F.R. 10164, set out below.

EX. ORD. NO. 13461. PROVIDING AN ORDER OF SUCCESSION
WITHIN THE DEPARTMENT OF HEALTH AND HUMAN
SERVICES

Ex. Ord. No. 13461, Feb. 15, 2008, 73 F.R. 9437, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

SECTION 1. Subject to the provisions of section 3 of this order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the Office of the Secretary of Health and Human Services (Secretary), if they are eligible to act as Secretary under the provisions of the Federal Vacancies Reform Act of 1998, during any period in which the Secretary has died, resigned, or become otherwise unable to perform the functions and duties of the office of Secretary.

SEC. 2. *Order of Succession.*

(a) Deputy Secretary of Health and Human Services;
(b) General Counsel of the Department of Health and Human Services;

(c) Assistant Secretary (Resources and Technology);
(d) Assistant Secretary (Planning and Evaluation);
(e) Administrator of the Centers for Medicare and Medicaid Services;

(f) Commissioner of Food and Drugs;

(g) Director of the National Institutes of Health;

(h) Assistant Secretary for Family Support;

(i) Other Assistant Secretaries of the Department of Health and Human Services appointed by the President, in the order in which they shall have taken the oath of office as such;

(j) Director, Centers for Disease Control and Prevention; and

(k) Director, Region 4.

SEC. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2 of this order in an acting capacity, by virtue of so serving, shall act as Secretary pursuant to this order.

(b) Notwithstanding the provisions of this order, the President retains discretion, consistent with the Federal Vacancies Reform Act of 1998, to depart from this order in designating an acting Secretary.

SEC. 4. *Revocation.* Executive Order 13250 of December 28, 2001 (Providing An Order of Succession Within the Department of Health and Human Services), and the President's memorandum of March 19, 2002 (Designation of Officers of the Department of Health and Human Services), are hereby revoked.

GEORGE W. BUSH.

EX. ORD. NO. 13472. EXECUTIVE BRANCH RESPONSIBILITIES
WITH RESPECT TO ORDERS OF SUCCESSION

Ex. Ord. No. 13472, Sept. 11, 2008, 73 F.R. 53353, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy.* It is the policy of the Federal Government to ensure that each executive branch agency can perform its essential functions and remain an effectively functioning part of the Federal Government under all conditions. Accordingly, each agency shall take all appropriate actions to establish, maintain, and, as necessary, revise an order of succession, or to propose presidential action to establish or revise an order of succession.

SEC. 2. *Definitions.* As used in this order:

(a) "agency" means:

(i) an executive agency as defined in section 105 of title 5, United States Code, other than the Government Accountability Office; and

(ii) the United States Postal Service and the Postal Regulatory Commission; and

(b) "order of succession" means a list of officials by position who shall act as and perform the functions and duties of the office of the head of the agency in the event that the office-holder has died, resigned, or otherwise become unable to perform the functions and duties of the office. "Order of succession" does not include any order, rule, memorandum, or other document

delegating or partially delegating the authority of an office.

SEC. 3. *Orders of Succession Requiring Presidential Action.*

(a) Each agency for which presidential action is required to establish an order of succession shall draft a proposed order of succession if no such order exists and, not later than 30 days from the date of this order, send such proposed draft order to the Counsel to the President for review and comment.

(b) Each agency described in subsection 3(a) of this order shall send any proposed updates or revisions to the agency's order of succession to the Counsel to the President for review and comment.

(c) Upon completion of the requirements set forth by subsections (a) or (b) of this section with respect to a proposed order, the agency shall submit the proposed order to the Office of Management and Budget in accordance with Executive Order 11030, as amended.

SEC. 4. *Orders of Succession Not Requiring Presidential Action.* (a) Each agency for which presidential action is not required to establish an order of succession because of the agency's existing legal authority shall establish and maintain such order in accordance with applicable law and any applicable guidance issued by the President or the Secretary of Homeland Security, including the laws and guidance regarding continuity plans and programs for the executive branch.

(b) Each agency described in subsection 4(a) of this order shall update and revise its order of succession as necessary. Before implementing any revisions to its order of succession, such agency shall send the proposed revisions to the Counsel to the President for review and comment.

(c) Not later than 30 days from the date of this order, and not later than 7 days from the issuance date of any subsequent final revision to an existing order of succession, each agency described in subsection 4(a) of this order shall provide a copy of its order of succession to the Counsel to the President, the Assistant to the President for Homeland Security and Counterterrorism, and the Director of the Office of Management and Budget.

SEC. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department, agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) Nothing in this order shall be construed to delegate the President's authority under the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, to designate individuals to perform the functions and duties of a vacant office temporarily in an acting capacity.

(c) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

EXECUTIVE ORDER NO. 13481

Ex. Ord. No. 13481, Dec. 9, 2008, 73 F.R. 75531, which provided an order of succession within the Department of Justice, was revoked by Ex. Ord. No. 13557, §3, Nov. 4, 2010, 75 F.R. 68679, set out below.

EX. ORD. NO. 13485. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF TRANSPORTATION

Ex. Ord. No. 13485, Jan. 9, 2009, 74 F.R. 2287, provided: By the authority vested in me as President under the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

SECTION 1. *Order of Succession.* Subject to the provisions of section 2 of this order, the following officials of the Department of Transportation, in the order listed, shall act as and perform the functions and duties of the office of the Secretary of Transportation (Secretary), during any period in which the Secretary, the Deputy Secretary of Transportation, the Under Secretary of Transportation for Policy, and the officials designated by the Secretary pursuant to 49 U.S.C. 102(e) have died, resigned, or otherwise become unable to perform the functions and duties of the office of Secretary, until such time as the Secretary or one of the officials listed above is able to perform the duties of that office:

(a) Administrator of the Federal Highway Administration;

(b) Administrator of the Federal Aviation Administration;

(c) Administrator of the Federal Motor Carrier Safety Administration;

(d) Administrator of the Federal Railroad Administration;

(e) Administrator of the Federal Transit Administration;

(f) Administrator of the Maritime Administration;

(g) Administrator of the Pipeline and Hazardous Materials Safety Administration;

(h) Administrator of the National Highway Traffic Safety Administration;

(i) Administrator of the Research and Innovative Technology Administration;

(j) Administrator of the Saint Lawrence Seaway Development Corporation;

(k) Regional Administrator, Southern Region, Federal Aviation Administration;

(l) Director, Resource Center, Lakewood, Colorado, Federal Highway Administration; and

(m) Regional Administrator, Northwest Mountain Region, Federal Aviation Administration.

SEC. 2. *Exceptions.* (a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as Secretary pursuant to this section.

(b) No individual who is serving in an office listed in section 1 shall act as Secretary unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998.

(c) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by law, to depart from this order in designating an acting Secretary.

SEC. 3. This order supersedes the President's Memorandum of March 19, 2002 (Designation of Officers of the Department of Transportation).

SEC. 4. This order is intended to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

EX. ORD. NO. 13533. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF DEFENSE

Ex. Ord. No. 13533, Mar. 1, 2010, 75 F.R. 10163, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, as amended, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

SECTION 1. *Order of Succession.*

(a) Subject to the provisions of section 2 of this order, the following officials of the Department of Defense, in the order listed, shall act as and perform the functions and duties of the office of the Secretary of Defense (Secretary) during any period in which the Secretary has died, resigned, or otherwise become unable to perform the functions and duties of the office of the Secretary, until such time as the Secretary is able to perform the functions and duties of that office:

- (1) Deputy Secretary of Defense;
- (2) Secretary of the Army;
- (3) Secretary of the Navy;
- (4) Secretary of the Air Force;
- (5) Under Secretary of Defense for Acquisition, Technology, and Logistics;
- (6) Under Secretary of Defense for Policy;
- (7) Under Secretary of Defense (Comptroller);
- (8) Under Secretary of Defense for Personnel and Readiness;
- (9) Under Secretary of Defense for Intelligence;
- (10) Deputy Chief Management Officer, Department of Defense;
- (11) Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics;
- (12) Principal Deputy Under Secretary of Defense for Policy;
- (13) Principal Deputy Under Secretary of Defense (Comptroller);
- (14) Principal Deputy Under Secretary of Defense for Personnel and Readiness;
- (15) Principal Deputy Under Secretary of Defense for Intelligence;
- (16) Director of Defense Research and Engineering [now Assistant Secretary of Defense for Research and Engineering];
- (17) General Counsel of the Department of Defense, the Assistant Secretaries of Defense, the Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs [now Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs], the Director of Operational Test and Evaluation, the Director of Operational Energy Plans and Programs [now Assistant Secretary of Defense for Operational Energy Plans and Programs], and the Director of Cost Assessment and Program Evaluation;
- (18) Under Secretaries of the Army, the Navy, and the Air Force; and
- (19) Assistant Secretaries of the Army, the Navy, and the Air Force, and General Counsels of the Army, the Navy, and the Air Force.

(b) Precedence among officers designated within the same paragraph of subsection (a) shall be determined by the order in which they have been appointed to such office. Where officers designated within the same paragraph of subsection (a) have the same appointment date, precedence shall be determined by the order in which they have taken the oath to serve in that office.

SEC. 2. Exceptions.

(a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as Secretary pursuant to this order.

(b) No individual listed in section 1 shall act as Secretary unless that individual was appointed by the President, by and with the advice and consent of the Senate, and that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998, as amended.

(c) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by law, to depart from this order in designating an acting Secretary.

SEC. 3. Revocation. Executive Order 13394 of December 22, 2005 (Providing An Order of Succession Within the Department of Defense), is hereby revoked.

SEC. 4. Judicial Review. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

EX. ORD. NO. 13542. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF AGRICULTURE

Ex. Ord. No. 13542, May 13, 2010, 75 F.R. 27921, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of

America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345, *et seq.*, it is hereby ordered that:

SECTION 1. Order of Succession. (a) Subject to the provisions of section 2 of this order, the following officials of the Department of Agriculture, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Agriculture (Secretary) during any period in which both the Secretary and the Deputy Secretary of Agriculture (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary, until such time as the Secretary or Deputy Secretary is able to perform the functions and duties of that office:

- (1) Assistant Secretary of Agriculture for Administration;
- (2) Under Secretary of Agriculture for Marketing and Regulatory Programs;
- (3) Under Secretary of Agriculture for Food, Nutrition, and Consumer Services;
- (4) Under Secretary of Agriculture for Food Safety;
- (5) Under Secretary of Agriculture for Natural Resources and Environment;
- (6) Under Secretary of Agriculture for Farm and Foreign Agricultural Services;
- (7) Under Secretary of Agriculture for Rural Development;
- (8) Under Secretary of Agriculture for Research, Education, and Economics;
- (9) General Counsel of the Department of Agriculture;
- (10) Chief of Staff, Office of the Secretary;
- (11) Director, Kansas City Commodity Office, Farm Service Agency;

(12) State Executive Directors of the Farm Service Agency for the States of California, Iowa, and Kansas, in order of seniority fixed by length of unbroken service as State Executive Director of that State;

(13) Regional Administrators of the Food and Nutrition Service for the Mountain Plains Regional Office (Denver, Colorado), Midwest Regional Office (Chicago, Illinois), and Western Regional Office (San Francisco, California), in order of seniority fixed by length of unbroken service as Regional Administrator of that Regional Office;

(14) Chief Financial Officer of the Department of Agriculture;

(15) Assistant Secretary of Agriculture for Civil Rights; and

(16) Assistant Secretary of Agriculture for Congressional Relations.

(b) If any two or more individuals designated in paragraphs (12) and (13) of subsection (a) were sworn in to, or commenced service in, their respective offices on the same day, precedence shall be determined by the alphabetical order of the State in which the individual serves.

SEC. 2. Exceptions. (a) No individual who is serving in an office listed in section 1 in an acting capacity shall, by virtue of so serving, act as Secretary pursuant to this order.

(b) No individual who is serving in an office listed in section 1 shall act as Secretary unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998.

(c) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by law, to depart from this order in designating an acting Secretary.

SEC. 3. Executive Order 13241 of December 18, 2001, as amended, is hereby revoked.

SEC. 4. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

EX. ORD. NO. 13557. PROVIDING AN ORDER OF SUCCESSION WITHIN THE DEPARTMENT OF JUSTICE

Ex. Ord. No. 13557, Nov. 4, 2010, 75 F.R. 68679, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

SECTION 1. *Order of Succession.* Subject to the provisions of section 2 of this order, the following officers, in the order listed, shall act as and perform the functions and duties of the office of Attorney General, during any period in which the Attorney General, the Deputy Attorney General, the Associate Attorney General, and any officers designated by the Attorney General pursuant to 28 U.S.C. 508 to act as Attorney General have died, resigned, or otherwise become unable to perform the functions and duties of the office of Attorney General, until such time as at least one of the officers mentioned above is able to perform the functions and duties of that office:

(a) United States Attorney for the Eastern District of Virginia;

(b) United States Attorney for the District of Minnesota; and

(c) United States Attorney for the District of Arizona.

SEC. 2. *Exceptions.* (a) No individual who is serving in an office listed in section 1 of this order in an acting capacity, by virtue of so serving, shall act as Attorney General pursuant to this order.

(b) No individual listed in section 1 shall act as Attorney General unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998.

(c) Notwithstanding the provisions of this order, the President retains discretion, to the extent permitted by law, to depart from this order in designating an acting Attorney General.

SEC. 3. Executive Order 13481 of December 9, 2008, is revoked.

SEC. 4. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

DESIGNATION OF OFFICERS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY TO ACT AS DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY

Memorandum of President of the United States, Nov. 26, 2002, 67 F.R. 79513, which provided for an order of succession within the Federal Emergency Management Agency, terminated upon the transfer of the authorities, functions, personnel, and assets of the Federal Emergency Management Agency to the Department of Homeland Security.

DESIGNATION OF OFFICERS OF THE DEPARTMENT OF VETERANS AFFAIRS TO ACT AS SECRETARY OF VETERANS AFFAIRS

Memorandum of President of the United States, Feb. 12, 2003, 68 F.R. 10141, provided:

Memorandum for the Secretary of Veterans Affairs

By the authority vested in me as President under the Constitution and laws of the United States of America and pursuant to the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, I hereby order that:

SECTION 1. *Order of Succession.*

During any period when the Secretary of Veterans Affairs (Secretary), the Deputy Secretary of Veterans Affairs (Deputy Secretary), and the officers designated by Executive Order 13247 of December 18, 2001 [set out above], to perform the functions and duties of the office of Secretary have died, resigned, or otherwise become unable to perform the functions and duties of the office of Secretary, the following officers of the Department of Veterans Affairs, in the order listed, shall perform the functions and duties of the office of Secretary, if they are eligible to act as Secretary under the provisions of the Federal Vacancies Reform Act of 1998, until

such time as at least one of the officers mentioned above is able to perform the functions and duties of the office of Secretary:

Veterans Integrated Service Network (VISN) 8 Director, Veterans Health Administration;

VISN 7 Director, Veterans Health Administration;

Veterans Benefits Administration Southern Area Director; and

North Florida/South Georgia Healthcare System Director.

SEC. 2. *Exceptions.*

(a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as Secretary pursuant to this memorandum.

(b) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, to depart from this memorandum in designating an acting Secretary.

SEC. 3. *Publication.*

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

DESIGNATION OF OFFICERS OF THE OFFICE OF PERSONNEL MANAGEMENT TO ACT AS DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT

Memorandum of President of the United States, Mar. 11, 2003, 68 F.R. 12281, which provided for an order of succession within the Office of Personnel Management, was superseded by Memorandum of President of the United States, May 5, 2005, 70 F.R. 28773, set out below.

Memorandum of President of the United States, May 5, 2005, 70 F.R. 28773, provided:

Memorandum for the Director of the Office of Personnel Management

By the authority vested in me as President under the Constitution and laws of the United States of America and pursuant to the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, I hereby order that:

SECTION 1. *Order of Succession.*

During any period when the Director of the Office of Personnel Management (Director), or the Deputy Director of the Office of Personnel Management, has died, resigned, or otherwise become unable to perform the functions and duties of the office of Director, the following officers of the Office of Personnel Management, in the order listed, shall perform the functions and duties of the office of Director, if they are eligible to act as Director under the provisions of the Federal Vacancies Reform Act of 1998, until such time as at least one of the officers mentioned above is able to perform the functions and duties of the office of Director:

General Counsel;

Chief of Staff;

Director, Office of Communications and Public Liaison;

Director, Office of Congressional Relations;

Associate Director, Human Resources Products and Services;

Associate Director for Management;

Associate Director, Strategic Human Resources Policy;

Chief Financial Officer;

Associate Director, Human Capital Leadership and Merit Systems Accountability;

Deputy Associate Director, Center for Investigations Services; and

Director, Federal Executive Institute.

SEC. 2. *Exceptions.*

(a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as Director pursuant to this memorandum.

(b) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345-3349d, to depart from this memorandum in designating an acting Director.

SEC. 3. *Prior Memorandum Superseded.*

This memorandum supercedes the Presidential Memorandum of March 11, 2003 [formerly set out above], entitled, "Designation of Officers of the Office of Personnel Management to Act as Director of the Office of Personnel Management."

SEC. 4. *Publication.*

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

DESIGNATION OF OFFICERS OF THE DEPARTMENT OF JUSTICE

Memorandum of President of the United States, Dec. 8, 2006, 71 F.R. 74753, which provided a designation of officers of the Department of Justice, was superseded by Ex. Ord. No. 13481, §3, Dec. 9, 2008, 73 F.R. 75531, formerly set out above.

DESIGNATION OF OFFICERS OF THE FEDERAL BUREAU OF INVESTIGATION

Memorandum of President of the United States, Feb. 9, 2007, 72 F.R. 7343, provided:

Memorandum for the Director of the Federal Bureau of Investigation

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345, *et seq.*, it is hereby ordered that:

SECTION 1. *Order of Succession.* During any period when the Director of the Federal Bureau of Investigation (Director) has died, resigned, or otherwise become unable to perform the functions and duties of the office of the Director, the following officials of the Federal Bureau of Investigation, in the order listed, shall perform the functions and duties of the office of the Director of the Federal Bureau of Investigation, until such time as the Director is able to perform the functions and duties of the office of Director of the Federal Bureau of Investigation:

(a) Deputy Director of the Federal Bureau of Investigation;

(b) Associate Deputy Director of the Federal Bureau of Investigation;

(c) Executive Assistant Director of the National Security Branch;

(d) Executive Assistant Director for Criminal, Cyber, Response and Services; and

(e) The Assistant Directors of the Federal Bureau of Investigation, in the order listed:

(1) Assistant Director, Counterterrorism Division;

(2) Assistant Director, Criminal Investigative Division;

(3) Assistant Director, Counterintelligence Division;

(4) Assistant Director, Washington Field Office;

(5) Assistant Director, New York Field Office; and

(6) Assistant Director, Los Angeles Field Office.

SEC. 2. *Exceptions.*

(a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as the Director pursuant to this memorandum.

(b) No individual shall act as Director unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998.

(c) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by law, to depart from this memorandum in designating an acting Director.

SEC. 3. *Judicial Review.* This memorandum is intended to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 4. The Director of the Federal Bureau of Investigation is authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

DESIGNATION OF OFFICERS OF THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE TO ACT AS THE UNITED STATES TRADE REPRESENTATIVE

Memorandum of President of the United States, Feb. 20, 2007, 72 F.R. 8085, provided:

Memorandum for the United States Trade Representative

By the authority vested in me as President under the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345, *et seq.*, it is hereby ordered that:

SECTION 1. *Order of Succession.*

During any period when the United States Trade Representative (USTR) has died, resigned, or otherwise becomes unable to perform the functions and duties of the office of the United States Trade Representative, the following officers of the Office of the United States Trade Representative, in the order listed, shall perform the functions and duties of the USTR, until such time as the USTR is able to perform the functions and duties of that office:

(a) Deputy United States Trade Representatives (stationed in Washington, D.C.; in order of their length of service as a Deputy USTR);

(b) Deputy United States Trade Representative (stationed in Geneva);

(c) General Counsel;

(d) Chief Negotiator for Agriculture;

(e) Deputy General Counsel; and

(f) Deputy Chief of Mission (stationed in Geneva).

SEC. 2. *Exceptions.*

(a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as the USTR pursuant to this memorandum.

(b) No individual shall act as USTR unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998.

(c) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by law, to depart from this memorandum in designating an acting USTR.

SEC. 3. *Judicial Review.* This memorandum is intended to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 4. *Publication.* You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

DESIGNATION OF OFFICERS OF THE COUNCIL ON ENVIRONMENTAL QUALITY TO ACT AS CHAIRMAN OF THE COUNCIL ON ENVIRONMENTAL QUALITY

Memorandum of President of the United States, Sept. 18, 2008, 73 F.R. 54487, provided:

Memorandum for the Chairman of the Council on Environmental Quality

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

SECTION 1. *Order of Succession.* Subject to the provisions of section 2 of this memorandum, the following officials of the Council on Environmental Quality in the order listed, shall act as and perform the functions and duties of the office of the Chairman of the Council on Environmental Quality (Chairman), during any period in which the Chairman has died, resigned, or otherwise become unable to perform the functions and duties of the office of Chairman until such time as the Chairman is able to perform the functions and duties of that office:

(a) Chief of Staff;

(b) General Counsel; and

(c) Associate Directors in the order that they shall have been appointed as such.

SEC. 2. *Exceptions.*

(a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as the Chairman pursuant to this memorandum.

(b) No individual listed in section 1 shall act as Chairman unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998.

(c) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by law, to depart from this order in designating an acting Chairman.

SEC. 3. *Judicial Review.* This memorandum is intended to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 4. You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

DESIGNATION OF OFFICERS OF THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE TO ACT AS DIRECTOR OF NATIONAL INTELLIGENCE

Memorandum of President of the United States, Dec. 20, 2005, 70 F.R. 76375, which provided for a designation of officers of the Office of the Director of National Intelligence to act as Director of National Intelligence, was superseded by Memorandum of President of the United States, §4, Oct. 3, 2008, 73 F.R. 58869, set out below.

Memorandum of President of the United States, Oct. 3, 2008, 73 F.R. 58869, provided:

Memorandum for the Director of National Intelligence

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*,

it is hereby ordered that:

SECTION 1. Subject to the provisions of sections 2 and 3 of this memorandum, the following officers of the office of the Director of National Intelligence, in the order listed, shall act as and perform the functions and duties of the office of the Director of National Intelligence (DNI), during any period in which the DNI and the Principal Deputy Director of National Intelligence have died, resigned, or otherwise become unable to perform the functions and duties of the office of the DNI, until such time as the DNI or the Principal Deputy Director is able to perform the functions and duties of the office of DNI:

- (a) Director of the Intelligence Staff;
- (b) Deputy Director of National Intelligence for Policy, Plans, and Requirements;
- (c) Deputy Director of National Intelligence for Analysis;
- (d) Deputy Director of National Intelligence for Collection;
- (e) Director of the National Counterterrorism Center; and
- (f) National Counterintelligence Executive.

SEC. 2. *National Security Act of 1947.* This memorandum shall not supersede the authority of the Principal Deputy Director of National Intelligence to act for, and exercise the powers of, the Director of National Intelligence during the absence or disability of the Director of National Intelligence or during a vacancy in the position of Director of National Intelligence (National Security Act of 1947, as amended, 50 U.S.C. 403-3a).

SEC. 3. *Exceptions.* (a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as DNI pursuant to this memorandum.

(b) No individual listed in section 1 shall act as DNI unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998.

(c) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent

permitted by law, to depart from this memorandum in designating an acting DNI.

SEC. 4. This memorandum supersedes the President's memorandum of December 20, 2005 (Designation of Officers of the Office of the Director of National Intelligence to Act as Director of National Intelligence).

SEC. 5. This memorandum is intended to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

SEC. 6. You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

DESIGNATION OF OFFICERS OF THE SOCIAL SECURITY ADMINISTRATION TO ACT AS THE COMMISSIONER OF SOCIAL SECURITY

Memorandum of President of the United States, Apr. 17, 2006, 71 F.R. 20333, which provided for a designation of officers of the Social Security Administration, was superseded by Memorandum of President of the United States, §3, Oct. 17, 2008, 73 F.R. 62845, set out below.

Memorandum of President of the United States, Oct. 17, 2008, 73 F.R. 62845, provided:

Memorandum for the Commissioner of Social Security

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

SECTION 1. *Order of Succession.* Subject to the provisions of section 2 of this memorandum, the following officials of the Social Security Administration, in the order listed, shall act as and perform the functions and duties of the office of the Commissioner of Social Security (Commissioner), during any period in which both the Commissioner and Deputy Commissioner have died, resigned, or become otherwise unable to perform the functions and duties of the office of the Commissioner, until such time as the Commissioner or Deputy Commissioner are able to perform the duties of that office:

- (a) Chief of Staff;
- (b) Deputy Commissioner for Operations;
- (c) Deputy Commissioner for Budget, Finance and Management;
- (d) Deputy Commissioner for Systems;
- (e) Deputy Commissioner for Quality Performance;
- (f) Regional Commissioner, Atlanta; and
- (g) Regional Commissioner, Dallas.

SEC. 2. *Exceptions.* (a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as Commissioner pursuant to this memorandum.

(b) No individual listed in section 1 shall act as Commissioner unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998.

(c) Notwithstanding the provisions of this memorandum, the President retains the discretion, to the extent permitted by law, to depart from this memorandum in designating an acting Commissioner.

SEC. 3. This memorandum supersedes the President's Memorandum of April 17, 2006 (Designation of Officers of the Social Security Administration).

SEC. 4. This memorandum is intended to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

SEC. 5. You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

DESIGNATION OF OFFICERS OF THE PENSION BENEFIT GUARANTY CORPORATION TO ACT AS DIRECTOR OF THE PENSION BENEFIT GUARANTY CORPORATION

Memorandum of President of the United States, Dec. 9, 2008, 73 F.R. 75533, provided:

Memorandum for the Director of the Pension Benefit Guaranty Corporation

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

SECTION 1. *Order of Succession.* Subject to the provisions of section 2 of this memorandum, the following officials of the Pension Benefit Guaranty Corporation, in the order listed, shall act as and perform the functions and duties of the office of the Director of the Pension Benefit Guaranty Corporation (Director), during any period in which the Director has died, resigned, or otherwise become unable to perform the functions and duties of the office of Director, until such time as the Director is able to perform the functions and duties of that office:

- (a) Deputy Director for Operations;
- (b) Chief Management Officer;
- (c) Chief Operating Officer; and
- (d) General Counsel.

SEC. 2. *Exceptions.* [(j)a] No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as the Director pursuant to this memorandum.

(b) No individual listed in section 1 shall act as Director unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998.

(c) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by law, to depart from this memorandum in designating an acting Director.

SEC. 3. This memorandum is intended to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, it [sic] agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

SEC. 4. You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

DESIGNATION OF OFFICERS OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT TO ACT AS ADMINISTRATOR

Memorandum of President of the United States, Dec. 9, 2008, 73 F.R. 75535, provided:

Memorandum for the Administrator of the United States Agency for International Development

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

SECTION 1. *Order of Succession.* Subject to the provisions of section 2 of this memorandum, the Assistant Administrators for the Bureaus, in the order in which they were appointed as an Assistant Administrator, shall act as and perform the functions and duties of the office of the Administrator (Administrator), during any period in which the Administrator and the Deputy Administrator have died, resigned, or otherwise become unable to perform the functions and duties of the office of Administrator, until such time as the Administrator or Deputy Administrator are able to perform the functions and duties of that office:

- (a) Bureau for Africa;
- (b) Bureau for Asia;
- (c) Bureau for Democracy, Conflict, and Humanitarian Assistance;
- (d) Bureau for Economic Growth, Agriculture, and Trade;
- (e) Bureau for Europe and Eurasia;
- (f) Bureau for Global Health;

- (g) Bureau for Latin America and the Caribbean;
- (h) Bureau for Legislative and Public Affairs;
- (i) Bureau for Management; and
- (j) Bureau for the Middle East.

SEC. 2. *Exceptions.* (a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as the Administrator pursuant to this memorandum.

(b) No individual listed in section 1 shall act as Administrator unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998.

(c) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by law, to depart from this memorandum in designating an acting Administrator.

SEC. 3. This memorandum supersedes the President's memorandum of July 10, 2002, (Designation of Officers of the United States Agency for International Development to Act as Administrator).

SEC. 4. This memorandum is intended to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, it [sic] agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

SEC. 5. You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

DESIGNATION OF OFFICERS OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION TO ACT AS ADMINISTRATOR

Memorandum of President of the United States, Jan. 16, 2009, 74 F.R. 4099, provided:

Memorandum for the Administrator of the National Aeronautics and Space Administration

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

SECTION 1. *Order of Succession.* Subject to the provisions of section 2 of this memorandum, the following officials of the National Aeronautics and Space Administration (NASA), in the order listed, shall act as and perform the functions and duties of the office of the Administrator of NASA (Administrator), during any period in which both the Administrator and Deputy Administrator of NASA (Deputy Administrator) have died, resigned, or otherwise become unable to perform the functions and duties of the office of Administrator, until such time as the Administrator or Deputy Administrator is able to perform the functions and duties of that office:

- (a) Associate Administrator;
- (b) Chief of Staff to the NASA Administrator;
- (c) Director for Johnson Space Flight Center;
- (d) Director for Kennedy Space Flight Center; and
- (e) Director for Marshall Space Flight Center.

SEC. 2. *Exceptions.* (a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as Administrator pursuant to this memorandum.

(b) No individual listed in section 1 shall act as Administrator unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998.

(c) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by law, to depart from this memorandum in designating an acting Administrator.

SEC. 3. This memorandum is intended to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, it [sic] agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

SEC. 4. You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

DESIGNATION OF OFFICERS TO ACT AS PRESIDENT OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION

Memorandum of President of the United States, Jan. 16, 2009, 74 F.R. 4101, provided:

Memorandum for the President of the Overseas Private Investment Corporation

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

SECTION 1. *Order of Succession.* Subject to the provisions of section 2 of this memorandum, the following officials of the Overseas Private Investment Corporation, in the order listed, shall act as and perform the functions and duties of the office of the President of the Overseas Private Investment Corporation (POPIC), during any period in which the POPIC has died, resigned, or otherwise become unable to perform the functions and duties of the office of POPIC, until such time as the POPIC is able to perform the functions and duties of that office:

- (a) Executive Vice President;
- (b) Vice President and General Counsel;
- (c) Vice President and Chief Financial Officer;
- (d) Deputy General Counsel; and
- (e) Director of Operations.

SEC. 2. *Exceptions.*

(a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as POPIC pursuant to this memorandum.

(b) No individual listed in section 1 shall act as POPIC unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998.

(c) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by law, to depart from this memorandum in designating an acting POPIC.

SEC. 3. This memorandum is intended to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

SEC. 4. You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

DESIGNATION OF OFFICERS OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY TO ACT AS DIRECTOR

Memorandum of President of the United States, Aug. 5, 2009, 74 F.R. 39871, provided:

Memorandum for the Director of the Office of Science and Technology Policy

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Vacancies Reform Act of 1998, 5 U.S.C. 3345 *et seq.*, it is hereby ordered that:

SECTION 1. *Order of Succession.* Subject to the provisions of section 2 of this memorandum, the following officials of the Office of Science and Technology Policy (OSTP), in the order listed, shall act as and perform the functions and duties of the office of the Director of OSTP (Director), during any period in which the Director has died, resigned, or otherwise become unable to perform the functions and duties of the office of the Director, until such time as the Director is able to perform the functions and duties of that office:

- (a) Associate Director (National Security and International Affairs);
- (b) Associate Director (Technology);
- (c) Associate Director (Science); and
- (d) Associate Director (Environment).

SEC. 2. *Exceptions.*

(a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as Director pursuant to this memorandum.

(b) No individual listed in section 1 shall act as Director unless that individual is otherwise eligible to so serve under the Federal Vacancies Reform Act of 1998.

(c) Notwithstanding the provisions of this memorandum, the President retains the discretion, to the extent permitted by law, to depart from this memorandum in designating an acting Director.

SEC. 3. *Revocation.* The President's memorandum of December 11, 2002 (Designation of Officers of the Office of Science and Technology Policy to Act as Director), is hereby revoked.

SEC. 4. This memorandum is intended to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 5. You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

DESIGNATION OF OFFICERS OF THE UNITED STATES SECTION, INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO TO ACT AS THE COMMISSIONER OF THE UNITED STATES SECTION

Memorandum of President of the United States, Aug. 31, 2009, 74 F.R. 45533, provided:

Memorandum for the Commissioner of the United States Section, International Boundary and Water Commission, United States and Mexico

By the authority vested in me as President by the Constitution and laws of the United States of America, it is hereby ordered that:

SECTION 1. *Order of Succession.* Subject to the provisions of section 2 of this memorandum, the following officials of the United States Section, International Boundary and Water Commission, United States and Mexico, in the order listed, shall act as and perform the functions and duties of the office of the Commissioner of the United States Section, International Boundary and Water Commission, United States and Mexico (Commissioner), during any period in which the Commissioner has died, resigned, or otherwise become unable to perform the functions and duties of the office of Commissioner, until such time as the Commissioner is able to perform the functions and duties of that office:

- (a) United States Section Principal Engineer—Operations Department; and
- (b) United States Section Principal Engineer—Engineering Department.

SEC. 2. *Exceptions.*

(a) No individual who is serving in an office listed in section 1 in an acting capacity, by virtue of so serving, shall act as Commissioner pursuant to this memorandum.

(b) Notwithstanding the provisions of this memorandum, the President retains discretion, to the extent permitted by law, to depart from this memorandum in designating an acting Commissioner.

SEC. 3. This memorandum is intended to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 4. You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 3346. Time limitation

(a) Except in the case of a vacancy caused by sickness, the person serving as an acting officer as described under section 3345 may serve in the office—

- (1) for no longer than 210 days beginning on the date the vacancy occurs; or

(2) subject to subsection (b), once a first or second nomination for the office is submitted to the Senate, from the date of such nomination for the period that the nomination is pending in the Senate.

(b)(1) If the first nomination for the office is rejected by the Senate, withdrawn, or returned to the President by the Senate, the person may continue to serve as the acting officer for no more than 210 days after the date of such rejection, withdrawal, or return.

(2) Notwithstanding paragraph (1), if a second nomination for the office is submitted to the Senate after the rejection, withdrawal, or return of the first nomination, the person serving as the acting officer may continue to serve—

(A) until the second nomination is confirmed; or

(B) for no more than 210 days after the second nomination is rejected, withdrawn, or returned.

(c) If a vacancy occurs during an adjournment of the Congress sine die, the 210-day period under subsection (a) shall begin on the date that the Senate first reconvenes.

(Added Pub. L. 105-277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681-612.)

PRIOR PROVISIONS

A prior section 3346, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 426, provided for details to subordinate offices, prior to repeal by Pub. L. 105-277, div. C, title I, §151(b), (d)(1), Oct. 21, 1998, 112 Stat. 2681-611, 2681-616, effective 30 days after Oct. 21, 1998. See section 3345 of this title.

EFFECTIVE DATE

Section effective 30 days after Oct. 21, 1998, and applicable to any office that becomes vacant after such effective date, with certain exceptions, see section 151(d) of Pub. L. 105-277, set out as a note under section 3345 of this title.

§ 3347. Exclusivity

(a) Sections 3345 and 3346 are the exclusive means for temporarily authorizing an acting official to perform the functions and duties of any office of an Executive agency (including the Executive Office of the President, and other than the Government Accountability Office) for which appointment is required to be made by the President, by and with the advice and consent of the Senate, unless—

(1) a statutory provision expressly—

(A) authorizes the President, a court, or the head of an Executive department, to designate an officer or employee to perform the functions and duties of a specified office temporarily in an acting capacity; or

(B) designates an officer or employee to perform the functions and duties of a specified office temporarily in an acting capacity; or

(2) the President makes an appointment to fill a vacancy in such office during the recess of the Senate pursuant to clause 3 of section 2 of article II of the United States Constitution.

(b) Any statutory provision providing general authority to the head of an Executive agency (including the Executive Office of the President, and other than the Government Accountability

Office) to delegate duties statutorily vested in that agency head to, or to reassign duties among, officers or employees of such Executive agency, is not a statutory provision to which subsection (a)(1) applies.

(Added Pub. L. 105-277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681-613; amended Pub. L. 106-31, title V, §5011, May 21, 1999, 113 Stat. 112; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

PRIOR PROVISIONS

A prior section 3347, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 426, provided for Presidential authority relating to details, prior to repeal by Pub. L. 105-277, div. C, title I, §151(b), (d)(1), Oct. 21, 1998, 112 Stat. 2681-611, 2681-616, effective 30 days after Oct. 21, 1998. See section 3345 of this title.

AMENDMENTS

2004—Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in introductory provisions of subsec. (a) and in subsec. (b). 1999—Subsec. (b). Pub. L. 106-31 substituted “subsection (a)(1)” for “subsection (a)(2)”.

EFFECTIVE DATE

Section effective 30 days after Oct. 21, 1998, and applicable to any office that becomes vacant after such effective date, with certain exceptions, see section 151(d) of Pub. L. 105-277, set out as a note under section 3345 of this title.

§ 3348. Vacant office

(a) In this section—

(1) the term “action” includes any agency action as defined under section 551(13); and

(2) the term “function or duty” means any function or duty of the applicable office that—

(A)(i) is established by statute; and

(ii) is required by statute to be performed by the applicable officer (and only that officer); or

(B)(i)(I) is established by regulation; and

(II) is required by such regulation to be performed by the applicable officer (and only that officer); and

(ii) includes a function or duty to which clause (i)(I) and (II) applies, and the applicable regulation is in effect at any time during the 180-day period preceding the date on which the vacancy occurs.

(b) Unless an officer or employee is performing the functions and duties in accordance with sections 3345, 3346, and 3347, if an officer of an Executive agency (including the Executive Office of the President, and other than the Government Accountability Office) whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate, dies, resigns, or is otherwise unable to perform the functions and duties of the office—

(1) the office shall remain vacant; and

(2) in the case of an office other than the office of the head of an Executive agency (including the Executive Office of the President, and other than the Government Accountability Office), only the head of such Executive agency may perform any function or duty of such office.

(c) If the last day of any 210-day period under section 3346 is a day on which the Senate is not

in session, the second day the Senate is next in session and receiving nominations shall be deemed to be the last day of such period.

(d)(1) An action taken by any person who is not acting under section 3345, 3346, or 3347, or as provided by subsection (b), in the performance of any function or duty of a vacant office to which this section and sections 3346, 3347, 3349, 3349a, 3349b, and 3349c apply shall have no force or effect.

(2) An action that has no force or effect under paragraph (1) may not be ratified.

(e) This section shall not apply to—

(1) the General Counsel of the National Labor Relations Board;

(2) the General Counsel of the Federal Labor Relations Authority;

(3) any Inspector General appointed by the President, by and with the advice and consent of the Senate;

(4) any Chief Financial Officer appointed by the President, by and with the advice and consent of the Senate; or

(5) an office of an Executive agency (including the Executive Office of the President, and other than the Government Accountability Office) if a statutory provision expressly prohibits the head of the Executive agency from performing the functions and duties of such office.

(Added Pub. L. 105-277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681-613; amended Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

PRIOR PROVISIONS

A prior section 3348, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 426; Pub. L. 100-398, §7(b), Aug. 17, 1988, 102 Stat. 988, provided for time limitations relating to details, prior to repeal by Pub. L. 105-277, div. C, title I, §151(b), (d)(1), Oct. 21, 1998, 112 Stat. 2681-611, 2681-616, effective 30 days after Oct. 21, 1998. See section 3346 of this title.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in two places.

Subsec. (e)(5). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

EFFECTIVE DATE

Section effective 30 days after Oct. 21, 1998, and applicable to any office that becomes vacant after such effective date, with certain exceptions, see section 151(d) of Pub. L. 105-277, set out as a note under section 3345 of this title.

§ 3349. Reporting of vacancies

(a) The head of each Executive agency (including the Executive Office of the President, and other than the Government Accountability Office) shall submit to the Comptroller General of the United States and to each House of Congress—

(1) notification of a vacancy in an office to which this section and sections 3345, 3346, 3347, 3348, 3349a, 3349b, 3349c, and 3349d apply and the date such vacancy occurred immediately upon the occurrence of the vacancy;

(2) the name of any person serving in an acting capacity and the date such service began immediately upon the designation;

(3) the name of any person nominated to the Senate to fill the vacancy and the date such nomination is submitted immediately upon the submission of the nomination; and

(4) the date of a rejection, withdrawal, or return of any nomination immediately upon such rejection, withdrawal, or return.

(b) If the Comptroller General of the United States makes a determination that an officer is serving longer than the 210-day period including the applicable exceptions to such period under section 3346 or section 3349a, the Comptroller General shall report such determination immediately to—

(1) the Committee on Governmental Affairs of the Senate;

(2) the Committee on Government Reform and Oversight of the House of Representatives;

(3) the Committees on Appropriations of the Senate and House of Representatives;

(4) the appropriate committees of jurisdiction of the Senate and House of Representatives;

(5) the President; and

(6) the Office of Personnel Management.

(Added Pub. L. 105-277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681-614; amended Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

PRIOR PROVISIONS

A prior section 3349, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 426, provided for restrictions relating to details to fill vacancies, prior to repeal by Pub. L. 105-277, div. C, title I, §151(b), (d)(1), Oct. 21, 1998, 112 Stat. 2681-616, effective 30 days after Oct. 21, 1998. See section 3347 of this title.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in introductory provisions.

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

Committee on Government Reform and Oversight of House of Representatives changed to Committee on Government Reform of House of Representatives by House Resolution No. 5, One Hundred Sixth Congress, Jan. 6, 1999. Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

EFFECTIVE DATE

Section effective 30 days after Oct. 21, 1998, and applicable to any office that becomes vacant after such effective date, with certain exceptions, see section 151(d) of Pub. L. 105-277, set out as a note under section 3345 of this title.

§ 3349a. Presidential inaugural transitions

(a) In this section, the term “transitional inauguration day” means the date on which any person swears or affirms the oath of office as President, if such person is not the President on the date preceding the date of swearing or affirming such oath of office.

(b) With respect to any vacancy that exists during the 60-day period beginning on a transi-

tional inauguration day, the 210-day period under section 3346 or 3348 shall be deemed to begin on the later of the date occurring—

- (1) 90 days after such transitional inauguration day; or
- (2) 90 days after the date on which the vacancy occurs.

(Added Pub. L. 105-277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681-615.)

EFFECTIVE DATE

Section effective 30 days after Oct. 21, 1998, and applicable to any office that becomes vacant after such effective date, with certain exceptions, see section 151(d) of Pub. L. 105-277, set out as a note under section 3345 of this title.

§ 3349b. Holdover provisions

Sections 3345 through 3349a shall not be construed to affect any statute that authorizes a person to continue to serve in any office—

- (1) after the expiration of the term for which such person is appointed; and
- (2) until a successor is appointed or a specified period of time has expired.

(Added Pub. L. 105-277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681-615.)

EFFECTIVE DATE

Section effective 30 days after Oct. 21, 1998, and applicable to any office that becomes vacant after such effective date, with certain exceptions, see section 151(d) of Pub. L. 105-277, set out as a note under section 3345 of this title.

§ 3349c. Exclusion of certain officers

Sections 3345 through 3349b shall not apply to—

- (1) any member who is appointed by the President, by and with the advice and consent of the Senate to any board, commission, or similar entity that—
 - (A) is composed of multiple members; and
 - (B) governs an independent establishment or Government corporation;
- (2) any commissioner of the Federal Energy Regulatory Commission;
- (3) any member of the Surface Transportation Board; or
- (4) any judge appointed by the President, by and with the advice and consent of the Senate, to a court constituted under article I of the United States Constitution.

(Added Pub. L. 105-277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681-615.)

EFFECTIVE DATE

Section effective 30 days after Oct. 21, 1998, and applicable to any office that becomes vacant after such effective date, with certain exceptions, see section 151(d) of Pub. L. 105-277, set out as a note under section 3345 of this title.

§ 3349d. Notification of intent to nominate during certain recesses or adjournments

(a) The submission to the Senate, during a recess or adjournment of the Senate in excess of 15 days, of a written notification by the President of the President's intention to submit a nomination after the recess or adjournment shall be

considered a nomination for purposes of sections 3345 through 3349c if such notification contains the name of the proposed nominee and the office for which the person is nominated.

(b) If the President does not submit a nomination of the person named under subsection (a) within 2 days after the end of such recess or adjournment, effective after such second day the notification considered a nomination under subsection (a) shall be treated as a withdrawn nomination for purposes of sections 3345 through 3349c.

(Added Pub. L. 105-277, div. C, title I, §151(b), Oct. 21, 1998, 112 Stat. 2681-615.)

EFFECTIVE DATE

Section effective 30 days after Oct. 21, 1998, and applicable to any office that becomes vacant after such effective date, with certain exceptions, see section 151(d) of Pub. L. 105-277, set out as a note under section 3345 of this title.

SUBCHAPTER IV—TRANSFERS

§ 3351. Preference eligibles; transfer; physical qualifications; waiver

In determining qualifications of a preference eligible for transfer to another position in the competitive service, an Executive agency, or the government of the District of Columbia, the Office of Personnel Management or other examining agency shall waive—

- (1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and
- (2) physical requirements if, in the opinion of the Office or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

This section does not apply to an appointment required by Congress to be confirmed by, or made with the advice and consent of, the Senate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 426; Pub. L. 94-183, §2(4), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 95-454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 854 (1st 2 sentences, so much as relates to transfer).	June 27, 1944, ch. 287, §5 (1st 2 sentences, so much as relates to transfer), 58 Stat. 388.

The section is restated to conform to section 3312. The words "in the competitive service, an Executive agency, or the government of the District of Columbia" are added on authority of former sections 851, 858, and 869, which are carried into this title. The last sentence is added on authority of former section 869.

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

AMENDMENTS

1978—Pub. L. 95-454 substituted "Office of Personnel Management" and "Office" for "Civil Service Commission" and "Commission", respectively.