any appointment made before the effective date under paragraph (1).

''(3) ELECTION.—

''(A) INCUMBENT DEFINED.—For purposes of this paragraph, the term 'incumbent' means an individual who is serving as a customs and border protection officer on the date of the enactment of this Act.

''(B) NOTICE REQUIREMENT.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall take measures reasonably designed to ensure that incumbents are notified as to their election rights under this paragraph, and the effect of making or not making a timely election.

''(C) ELECTION AVAILABLE TO INCUMBENTS.—

''(i) IN GENERAL.—An incumbent may elect, for all purposes, either—

''(I) to be treated in accordance with the amendments made by subsection (a) or (b) [amending sections 8331, 8334 to 8336, 8401, 8412, 8415, 8422, 8423, and 8425 of this title], as applicable; or

''(II) to be treated as if subsections (a) and (b) had never been enacted.

''Failure to make a timely election under this paragraph shall be treated in the same way as an election made under subclause (I) on the last day allowable under clause (ii).

''(ii) DEADLINE.—An election under this paragraph shall not be effective unless it is made at least 14 days before the effective date under paragraph (1).

''(4) DEFINITION.—For purposes of this subsection, the term 'customs and border protection officer' has the meaning given such term by section 8331(31) or 8401(36) of title 5, United States Code (as amended by this section).

''(5) EXCLUSION.—Nothing in this section or any amendment made by this section shall be considered to afford any election or to otherwise apply with respect to any individual who, as of the day before the date of the enactment of this Act—

''(A) holds a position within U.S. Customs and Border Protection; and

''(B) is considered a law enforcement officer for purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, by virtue of such position.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 103(f) of Pub. L. 100–238 provided that: ''This section, and the amendments made by this section [amending this section and sections 8401 and 8704 of this title and enacting provisions set out as a note under section 8334 of this title], shall be effective as of January 1, 1987.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–347 effective on 90th day after Sept. 12, 1980, see section 3 of Pub. L. 96–347, set out as a note under section 2109 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 7 of Pub. L. 93–350 provided that: ''The amendments made by the first section [amending this section], and sections 2(b), 5, and 6 [amending sections 8331, 8336, and 8339 of this title], of this Act shall become effective on the date of enactment of this Act [July 12, 1974]. The amendments made by sections 2(a) and 3 [amending sections 8331 and 8334 of this title] of this Act shall become effective at the beginning of the first applicable pay period which begins after December 31, 1974. The amendment made by section 4 of this Act [amending section 8335 of this title] shall become effective on January 1, 1978.''

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–297 effective on 90th day after May 16, 1972, see section 10 of Pub. L. 92–297, set out as an Effective Date note under section 3381 of this title.

REGULATIONS

Pub. L. 110–161, div. E, title V, § 535(d), Dec. 26, 2007, 121 Stat. 2077, provided that: ''Any regulations necessary to carry out the amendments made by this section [amending this section and sections 8331, 8334 to 8336, 8401, 8412, 8415, 8422, 8423, and 8425 of this title] shall be prescribed by the Director of the Office of Personnel Management in consultation with the Secretary of Homeland Security.''

UNITED STATES PARK POLICE; AGE LIMITS FOR ORIGINAL APPOINTMENTS

Pub. L. 91–73, Sept. 26, 1969, 83 Stat. 116, which provided for age limits for appointments to the United States Park Police, was repealed by Pub. L. 92–297, § 11, May 16, 1972, 86 Stat. 145, effective at the end of the 89th day after May 16, 1972. The Secretary of the Interior may fix age limits for appointment under subsec. (c) of this section.

EX. ORD. NO. 11817. OFFICE OF PERSONNEL MANAGEMENT DESIGNATED AGENT TO CONCUR WITH AGENCY DETERMINATION FIXING AGE LIMITS FOR MAKING ORIGINAL APPOINTMENTS RESPECTING LAW ENFORCEMENT OFFICER AND FIREFIGHTER POSITIONS

Ex. Ord. No. 11817, Nov. 5, 1974, 39 F.R. 39427, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, provided:

By virtue of the authority vested in me by section 3307(d) of title 5 of the United States Code, as added by the first section of the Act of July 12, 1974 (Public Law 93–350; 88 Stat. 355), I hereby designate the Office of Personnel Management as the agency to concur with determinations made by agencies to fix the minimum and maximum limits of age within which an original appointment may be made to a position as a law enforcement officer or firefighter, as defined by section 8331(20) and (21), respectively, of title 5 of the United States Code. The designation made by this order shall be effective as of October 15, 1974.

§ 3308. Competitive service; examinations; educational requirements prohibited; exceptions

The Office of Personnel Management or other examining agency may not prescribe a minimum educational requirement for an examination for the competitive service except when the Office decides that the duties of a scientific, technical, or professional position cannot be performed by an individual who does not have a prescribed minimum education. The Office shall make the reasons for its decision under this section a part of its public records.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 419; Pub. L. 95–454, title IX, § 906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 854 (less 1st 2 sentences).	June 27, 1944, ch. 287, § 5 (less 1st 2 sentences), 58 Stat. 388.

The prohibition is restated in positive form. The words ''The Civil Service Commission or other examining agency'' are added because these are the only agencies to which the prohibition could apply.

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 Commis-

sion'' and ''Commission'', respectively, wherever appearing.

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.

§ 3309. Preference eligibles; examinations; additional points for

A preference eligible who receives a passing grade in an examination for entrance into the competitive service is entitled to additional points above his earned rating, as follows—

(1) a preference eligible under section 2108(3)(C)–(G) of this title—10 points; and

(2) a preference eligible under section 2108(3)(A)–(B) of this title—5 points.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 419; Pub. L. 90–83, § 1(8), Sept. 11, 1967, 81 Stat. 197; Pub. L. 105–85, div. A, title XI, § 1102(b), Nov. 18, 1997, 111 Stat. 1922.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 852 (1st sentence).	June 27, 1944, ch. 287, § 3 (less proviso), 58 Stat. 388. Jan. 19, 1948, ch. 1, § 2, 62 Stat. 3. Dec. 27, 1950, ch. 1151, § 2(a), 64 Stat. 1117. July 14, 1952, ch. 728, § 2, 66 Stat. 627. Aug. 14, 1953, ch. 485, § 1(a) ''Sec. 3 (1st sentence)'', 67 Stat. 581.

The word ''competitive'' is added before ''service'' for clarity. Application of this section to the excepted service in the executive branch and to the government of the District of Columbia, as provided in former section 858, is carried into section 3320.

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

1997—Par. (2). Pub. L. 105–85 substituted ''section 2108(3)(A)–(B)'' for ''section 2108(3)(A)''.

1967—Cl. (1). Pub. L. 90–83 substituted ''section 2108(3)(C)–(G)'' for ''section 2108(3)(B)–(F).'' See Historical and Revision Notes under section 3305 of this title.

§ 3310. Preference eligibles; examinations; guards, elevator operators, messengers, and custodians

In examinations for positions of guards, elevator operators, messengers, and custodians in the competitive service, competition is restricted to preference eligibles as long as preference eligibles are available.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 420.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 852 (2d sentence).	June 27, 1944, ch. 287, § 3 (proviso), 58 Stat. 388. Aug. 14, 1953, ch. 485, § 1(a) ''Sec. 3 (2d sentence)'', 67 Stat. 581.

The words ''in the competitive service'' are added for clarity. The reference to ''examinations held prior to December 31, 1954, for positions of apprentices'' is omitted as obsolete. Application of this section to the excepted service in the executive branch and to the government of the District of Columbia, as provided in former section 858, is carried into section 3320.

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

§ 3311. Preference eligibles; examinations; crediting experience

In examinations for the competitive service in which experience is an element of qualification, a preference eligible is entitled to credit—

(1) for service in the armed forces when his employment in a similar vocation to that for which examined was interrupted by the service; and

(2) for all experience material to the position for which examined, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether he received pay therefor.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 420.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
.....	5 U.S.C. 853.	June 27, 1944, ch. 287, § 4, 58 Stat. 388.

The words ''for the competitive service'' are added after ''examinations'' for clarity. Application of this section to the excepted service in the executive branch and to the government of the District of Columbia, as provided in former section 858, is carried into section 3320.

In paragraph (1), the words ''service in the armed forces'' are substituted for ''in the military or naval service of the United States'' on authority of the Act of July 26, 1947, ch. 343, § 305(a), 61 Stat. 508. The word ''actual'' is omitted as surplusage.

In paragraph (2), the words ''material to the position for which examined'' are substituted for ''valuable'' for clarity.

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

§ 3312. Preference eligibles; physical qualifications; waiver

(a) In determining qualifications of a preference eligible for examination for, appointment in, or reinstatement in the competitive service, 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.

(b) If an examining agency determines that, on the basis of evidence before it, a preference eligible under section 2108(3)(C) of this title who has a compensable service-connected disability of 30 percent or more is not able to fulfill the physical requirements of the position, the exam-