

suant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 774, 775, 776 of this title.

#### § 774. Rules and regulations

The Director of the Office of Personnel Management shall perform, or cause to be performed, such acts, and shall make such rules and regulations, as may be necessary or proper to carry out the provisions of sections 771 to 775 of this title.

(Aug. 19, 1950, ch. 761, § 4, 64 Stat. 466; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

#### TRANSFER OF FUNCTIONS

“Director of the Office of Personnel Management” substituted in text for “Civil Service Commission” pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 773, 775, 776 of this title.

#### § 775. Payments nonassignable and exempt from process

No payment under sections 771 to 775 of this title shall be assignable, either in law or in equity, or be subject to execution, levy, lien, attachment, garnishment, or other legal process.

(Aug. 19, 1950, ch. 761, § 5, 64 Stat. 466.)

#### CROSS REFERENCES

Enforcement of legal obligations to provide child support and make alimony payments, see section 659 of Title 42, The Public Health and Welfare.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 773, 774, 776 of this title.

#### § 776. Payment out of Civil Service Retirement and Disability Fund

Annuities authorized by sections 771 to 775 of this title may, on and after November 19, 1995, be paid out of the Civil Service Retirement and Disability Fund.

(Pub. L. 104-52, title IV, Nov. 19, 1995, 109 Stat. 489.)

#### CODIFICATION

Section is from the appropriation act cited as the credit to this section.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 103-329, title IV, Sept. 30, 1994, 108 Stat. 2407.  
 Pub. L. 103-123, title IV, Oct. 28, 1993, 107 Stat. 1249.  
 Pub. L. 102-393, title IV, Oct. 6, 1992, 106 Stat. 1756.  
 Pub. L. 102-141, title IV, Oct. 28, 1991, 105 Stat. 860.  
 Pub. L. 101-509, title IV, Nov. 5, 1990, 104 Stat. 1421.  
 Pub. L. 101-136, title IV, Nov. 3, 1989, 103 Stat. 810.  
 Pub. L. 100-440, title IV, Sept. 22, 1988, 102 Stat. 1745.  
 Pub. L. 100-202, §101(m) [title IV], Dec. 22, 1987, 101 Stat. 1329-390, 1329-413.

Pub. L. 99-500, §101(m) [title IV], Oct. 18, 1986, 100 Stat. 1783-308, 1783-322, and Pub. L. 99-591, §101(m) [title IV], Oct. 30, 1986, 100 Stat. 3341-308, 3341-322.

Pub. L. 99-190, title I, §101(h) [H.R. 3036, title IV], Dec. 19, 1985, 99 Stat. 1291.

Pub. L. 98-473, title I, §101(j) [H.R. 5798, title IV], Oct. 12, 1984, 98 Stat. 1963.

Pub. L. 98-151, §101(f) [H.R. 4139, title IV], Nov. 14, 1983, 97 Stat. 973.

Pub. L. 97-377, title I, §101(a) [incorporating H.R. 4121, title IV, for FY 1982], Dec. 21, 1982, 96 Stat. 1830.

Pub. L. 97-92, §101(a) [H.R. 4121, title IV], Dec. 15, 1981, 95 Stat. 1183.

Pub. L. 96-536, §101(a) [incorporating Pub. L. 96-74, title IV], Dec. 16, 1980, 94 Stat. 3166.

Pub. L. 96-74, title IV, Sept. 29, 1979, 93 Stat. 571.

Pub. L. 95-429, title IV, Oct. 10, 1978, 92 Stat. 1007.

Pub. L. 95-81, title IV, July 31, 1977, 91 Stat. 347.

Pub. L. 94-363, title IV, July 14, 1976, 90 Stat. 969.

Pub. L. 94-91, title IV, Aug. 9, 1975, 89 Stat. 449.

Pub. L. 93-381, title IV, Aug. 21, 1974, 88 Stat. 620.

Pub. L. 93-143, title IV, Oct. 30, 1973, 87 Stat. 517.

## CHAPTER 17—NATIONAL OCEAN SURVEY

### SUBCHAPTER I—GENERAL PROVISIONS

Sec.

851. Commissioned officers; authorized number.  
 851a to 852b. Repealed or Omitted.  
 853. Power to settle claims.  
 853a. Authorized numbers in permanent rank.  
     (a) Relative rank; proportion.  
     (b) Computation of number in grade.  
     (c) Reduction of grade or pay; separation.  
     (d) Filling of vacancies; additional numbers.  
     (e) Temporary increase in numbers.  
 853b. Promotion by selection to grades above lieutenant (junior grade).  
 853c. Consideration of all eligible officers for promotion purposes; date of promotion; separation from service.  
 853d. Promotions to permanent grades of commander and captain; time.  
 853e. Promotion of ensigns; separation from service.  
 853f. Length of service for promotion purposes.  
 853g. Retirement or separation of officers.  
     (a) Transfer of officers to retired list; separation from service.  
     (b) Computations.  
     (c) Effective date of retirements and separations.  
 853h. Separation pay of officers.  
     (a) Authorization of payment.  
     (b) Amount of pay; five or more years; three to five years.  
     (c) Determination of officer's years of service.  
     (d) Previously received pay excluded from determination of years of creditable service; limitation on total payment.  
     (e) Deduction from retired pay of amount of prior payments; deduction from disability compensation of amount of separation pay; exception.  
 853i. Appointments and promotions made by President; suspension during war or emergency.  
 853j. Examinations for promotion.  
 853j-1. Temporary appointments and promotions made by President.

<p>Sec.</p> <p>(a) Ensign. (b) Lieutenant junior grade. (c) Any one grade.</p> <p>853k. Retirement of officers. (a) For age; effective date. (b) Admirals for length of service; deferment.</p> <p>853l. Retirement for length of service upon application.</p> <p>853m, 853n. Repealed.</p> <p>853o. Computation of pay upon retirement. (a) Officer as member of uniformed service before September 8, 1980. (b) Officer as member of uniformed service on or after September 8, 1980. (c) Treatment of full and fractional parts of months in computing years of service; rounding off.</p> <p>853o-1. Credit of service as deck officer or junior engineer and certain other active service for retirement and retirement pay.</p> <p>853p. Rank upon retirement; pay; "temporary rank" defined.</p> <p>853q. Retired rank and pay held pursuant to other laws unaffected.</p> <p>853r. Personnel Board; composition; duties; recommendations.</p> <p>853s. Repealed.</p> <p>853t. Original appointments. (a) Eligible grades; examination; revocation of commission. (b) Lineal list. (c) Basic pay service credit.</p> <p>853u. Positions of importance and responsibility. (a) Designation; grades; appointment. (b) Number of officers appointed. (c) Pay and allowances. (d) Effect of appointment. (e) Retirement rank, pay, and allowances.</p> <p>854. Qualification of officers for appointment or promotion generally.</p> <p>854a. Service credit as deck officer or junior engineer for promotion purposes.</p> <p>854a-1. Temporary appointment or advancement of commissioned officers in time of war or national emergency.</p> <p>854a-2. Pay and allowances; date of acceptance of promotion.</p> <p>854b, 854c. Repealed.</p> <p>855. Cooperation with and transfer to military departments.</p> <p>855a. Repealed.</p> <p>856. Relative rank of officers when serving with Army, Navy, or Air Force.</p> <p>857. Service for purposes of servicemen's and veterans' benefits.</p> <p>857-1. National Oceanic and Atmospheric Administration; definitions.</p> <p>857-2. Retirement of officers; retired grade; retired pay; conditions: satisfactory service, length of service.</p> <p>857-3. Service for purposes of certain rights, privileges, immunities, and benefits; exercise of authority by Secretary of Commerce.</p> <p>857-4. Commissary privileges. (a) Extension of privilege. (b) Sales of rations, stores, uniforms, and related equipment. (c) Widows' rights.</p> <p>857-5. General provisions. (a) Statutes applicable to officers of the Environmental Science Services Administration; service in Coast and Geodetic Survey as service in such Administration. (b) Statutes applicable to officers of the Environmental Science Services Administration; service in certain agencies as service in the National Oceanic and Atmospheric Administration.</p>	<p>Sec.</p> <p>(c) Change in pay or allowances. (d) References in other laws, regulations, and orders. (e) Rules, regulations, and orders; continuing effect. (f) Construction of provisions; arrangement and headings. (g) Separability.</p> <p>857-6 to 857-12. Repealed.</p> <p>857-13. National Advisory Committee on Oceans and Atmosphere.</p> <p>857-14. Membership. (a) Appointment and qualifications. (b) Terms. (c) Chairman. (d) Duties.</p> <p>857-15. Reports. (a) In general. (b) Review by Secretary. (c) Annual report submittal.</p> <p>857-16. Compensation and travel expenses.</p> <p>857-17. Interagency cooperation and assistance. (a) Liaison. (b) Agency assistance. (c) Administrative assistance.</p> <p>857-18. Authorization of appropriations.</p> <p>857a. Rights, benefits, privileges, and immunities; exercise of authority by Secretary of Commerce or designee.</p> <p>858. Rules and regulations when cooperating with military departments.</p> <p>859 to 863. Repealed or Omitted.</p> <p>864. Retirement of officers generally.</p> <p>864a to 872. Repealed or Omitted.</p> <p>873. Extra compensation for instrument observers, recorders and other Federal employees for oceanographic, seismographic and magnetic observations.</p> <p>874. Transportation of deceased officers' effects; reimbursement for supplies furnished distressed and shipwrecked persons.</p> <p>875. Powers of officers as notaries.</p> <p>876. Fees for notarial acts; prima facie evidence of authority.</p> <p>877. Appropriations; advances from.</p> <p>878. Appropriations; purchases from.</p> <p style="text-align: center;">SUBCHAPTER II—SURVEYS</p> <p>881 to 883. Repealed.</p> <p>883a. Surveys and other activities.</p> <p>883b. Dissemination of data; further activities.</p> <p>883c. Geomagnetic data; collection, correlation, and dissemination.</p> <p>883d. Improvement of methods, instruments, and equipments; investigations and research.</p> <p>883e. Cooperative agreements for surveys and investigations; contribution of costs incurred by National Oceanic and Atmospheric Administration.</p> <p>883f. Contracts with qualified organizations.</p> <p>883g. Repealed.</p> <p>883h. Employment of public vessels.</p> <p>883i. Authorization of appropriations.</p> <p>883j. Ocean satellite data.</p> <p>883k. Acquisition of land for facilities.</p> <p>884. Power to use books, maps, etc., and to employ persons.</p> <p>885 to 890. Repealed or Omitted.</p> <p style="text-align: center;">SUBCHAPTER III—NOAA FLEET MODERNIZATION</p> <p>891. Definitions.</p> <p>891a. Fleet replacement and modernization program.</p> <p>891b. Fleet replacement and modernization Plan. (a) In general. (b) Timing. (c) Plan elements. (d) Contracting limitation.</p> <p>891c. Design of NOAA vessels.</p>
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- Sec. (a) Design requirement.  
(b) Exception.
- 891d. Contract authority.  
(a) Multiyear contracts.  
(b) Service contracts.  
(c) Bonding authority.
- 891e. Restriction with respect to certain shipyard subsidies.  
(a) In general.  
(b) "Significant subsidy" defined.
- 891f. Use of vessels.  
(a) Vessel agreements.  
(b) Report to Congress.
- 891g. Interoperability.
- 891h. Authorization of appropriations.  
(a) In general.  
(b) Limitation on fleet modernization activities.

#### SUBCHAPTER I—GENERAL PROVISIONS

##### § 851. Commissioned officers; authorized number

There are authorized in the National Oceanic and Atmospheric Administration 439 commissioned officers on the active list.

(Aug. 26, 1994, Pub. L. 103-317, title II, 108 Stat. 1741.)

#### CODIFICATION

Section is from the appropriation act cited as the credit to this section.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

- Oct. 27, 1993, Pub. L. 103-121, title II, 107 Stat. 1170.  
Oct. 6, 1992, Pub. L. 102-395, title II, 106 Stat. 1849.  
Oct. 28, 1991, Pub. L. 102-140, title II, 105 Stat. 799.  
Nov. 5, 1990, Pub. L. 101-515, title I, 104 Stat. 2104.  
Nov. 21, 1989, Pub. L. 101-162, title I, 103 Stat. 992.  
Oct. 1, 1988, Pub. L. 100-459, title I, 102 Stat. 2190.  
Dec. 22, 1987, Pub. L. 100-202, §101(a) [title I], 101 Stat. 1329, 1329-4.  
Oct. 18, 1986, Pub. L. 99-500, §101(b) [title I], 100 Stat. 1783-39, 1783-42, and Oct. 30, 1986, Pub. L. 99-591, §101(b) [title I], 100 Stat. 3341-39, 3341-42.  
Dec. 13, 1985, Pub. L. 99-180, title I, 99 Stat. 1138.  
Aug. 30, 1984, Pub. L. 98-411, title I, 98 Stat. 1548.  
Nov. 28, 1983, Pub. L. 98-166, title I, §101, 97 Stat. 1074.  
Dec. 21, 1982, Pub. L. 97-377, title I, §101(d), 96 Stat. 1867, 1869.  
Dec. 15, 1981, Pub. L. 97-92, §101(h) [incorporating H.R. 7584, title III, for FY 1981], 95 Stat. 1190.  
Dec. 16, 1980, Pub. L. 96-536, §101o, [H.R. 7584, title III], 94 Stat. 3169.  
Sept. 24, 1979, Pub. L. 96-68, title III, 93 Stat. 424.  
Oct. 10, 1978, Pub. L. 95-431, title III, 92 Stat. 1033.  
Aug. 2, 1977, Pub. L. 95-86, title III, 91 Stat. 431.  
July 14, 1976, Pub. L. 94-362, title III, 90 Stat. 949.  
Oct. 21, 1975, Pub. L. 94-121, title III, 89 Stat. 625.  
Oct. 5, 1974, Pub. L. 93-433, title III, 88 Stat. 1197.  
Nov. 27, 1973, Pub. L. 93-162, title III, 87 Stat. 647.  
Oct. 25, 1972, Pub. L. 92-544, title III, 86 Stat. 1121.  
Aug. 10, 1971, Pub. L. 92-77, title III, 85 Stat. 257.  
Oct. 21, 1970, Pub. L. 91-472, title III, 84 Stat. 1051.  
Dec. 24, 1969, Pub. L. 91-153, title III, 83 Stat. 414.  
Aug. 9, 1968, Pub. L. 90-470, title III, 82 Stat. 679.  
Nov. 8, 1967, Pub. L. 90-133, title III, 81 Stat. 422.  
Nov. 8, 1966, Pub. L. 89-797, title III, 80 Stat. 1491.  
Sept. 2, 1965, Pub. L. 89-164, title III, 79 Stat. 631.  
Aug. 31, 1964, Pub. L. 88-527, title III, 78 Stat. 722.  
Dec. 30, 1963, Pub. L. 88-245, title III, 77 Stat. 787.  
Oct. 18, 1962, Pub. L. 87-843, title III, 76 Stat. 1091.  
Aug. 3, 1961, Pub. L. 87-125, title II, 75 Stat. 271.  
May 13, 1960, Pub. L. 86-451, title I, 74 Stat. 94.  
July 13, 1959, Pub. L. 86-88, title I, 73 Stat. 202.  
June 25, 1958, Pub. L. 85-469, title I, 72 Stat. 229.

- June 13, 1957, Pub. L. 85-52, title I, 71 Stat. 72.  
June 20, 1956, ch. 415, title I, 70 Stat. 316.  
June 30, 1955, ch. 253, title I, 69 Stat. 228.  
July 2, 1954, ch. 456, title III, 68 Stat. 424.  
Aug. 5, 1953, ch. 328, title III, 67 Stat. 378.  
July 10, 1952, ch. 651, title III, 66 Stat. 564.  
Oct. 22, 1951, ch. 533, title III, 65 Stat. 590.  
Sept. 6, 1950, ch. 896, Ch. III, title III, 64 Stat. 624.  
July 20, 1949, ch. 354, title III, 63 Stat. 466.  
June 3, 1948, ch. 400, title III, 62 Stat. 325.  
July 9, 1947, ch. 211, title III, 61 Stat. 298.  
July 5, 1946, ch. 541, title III, 60 Stat. 470.  
May 21, 1945, ch. 129, title III, 59 Stat. 191.  
June 28, 1944, ch. 294, title III, 58 Stat. 420.  
July 1, 1943, ch. 182, title III, 57 Stat. 296.  
July 2, 1942, ch. 472, title III, 56 Stat. 495.  
June 28, 1941, ch. 258, title II, 55 Stat. 283.  
May 14, 1940, ch. 189, title II, 54 Stat. 198.  
June 29, 1939, ch. 248, title III, 53 Stat. 916.  
Apr. 27, 1938, ch. 180, title III, 52 Stat. 281.  
June 16, 1937, ch. 359, title III, 50 Stat. 294.  
May 15, 1936, ch. 405, 49 Stat. 1341.  
Mar. 22, 1935, ch. 39, 49 Stat. 96.  
Feb. 27, 1925, ch. 364, title III, 43 Stat. 1046.

#### TRANSFER OF FUNCTIONS

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and offices of Director and Deputy Director of Coast and Geodetic Survey abolished, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out below. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and of its Director.

Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees, abolished Environmental Science Services Administration, including offices of Administrator and Deputy Administrator, and established National Oceanic and Atmospheric Administration within Department of Commerce. By Department Organization Order 25-5A, re-published 39 F.R. 27486, July 29, 1974, Secretary of Commerce delegated to National Oceanic and Atmospheric Administration a number of functions vested in him, including his functions under this chapter of the Code. By order of Acting Associate Administrator, 35 F.R. 19249, Dec. 19, 1970, the following organizational names appearing in chapter IX of subtitle B of Title 15, Code of Federal Regulations, relating to the Administration, were changed: Environmental Science Services Administration to National Oceanic and Atmospheric Administration (ESSA to NOAA); Coast and Geodetic Survey to National Ocean Survey, and Weather Bureau to National Weather Service.

Section 857-5 of this title further provides for applicability of statutory provisions, formerly applied to commissioned officers of Coast and Geodetic Survey, to commissioned officers of National Oceanic and Atmospheric Administration.

The functions of all officers of Department of Commerce and all functions of all officers and employees of such Department, were, with a few exceptions, transferred to Secretary of Commerce, with power vested in him to authorize their performance or the performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 5 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees. The Coast and Geodetic Survey was an agency within the Department of Commerce.

#### SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-567, title VI, §601, Oct. 29, 1992, 106 Stat. 4299, provided that: "This title [enacting subchapter III of this chapter] may be cited as the 'NOAA Fleet Modernization Act'."

#### SHORT TITLE

Pub. L. 95-63, §1, July 5, 1977, 91 Stat. 265, provided: "That this Act [enacting sections 857-13 to 857-18 of

this title, repealing sections 857-6 to 857-12 of this title, and enacting provisions set out as a note under section 857-13 of this title] may be cited as the 'National Advisory Committee on Oceans and Atmosphere Act of 1977'."

#### REORGANIZATION PLAN NO. 2 OF 1965

Eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, as amended Pub. L. 90-83, §10(c), Sept. 11, 1967, 81 Stat. 224

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 13, 1965, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see 5 U.S.C. 901 et seq.].

#### ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION, DEPARTMENT OF COMMERCE

##### SECTION 1. TRANSFER OF FUNCTIONS

All functions vested by law in the Weather Bureau, the Chief of the Weather Bureau, the Coast and Geodetic Survey, the Director of the Coast and Geodetic Survey, and any officer, employee, or organizational entity of that Bureau or Survey, and not heretofore transferred to the Secretary of Commerce, hereinafter referred to as the Secretary, are hereby transferred to the Secretary.

##### SEC. 2. ABOLITIONS

(a) The offices of Director of the Coast and Geodetic Survey, Deputy Director of the Coast and Geodetic Survey, and Chief of the Weather Bureau are hereby abolished. The Secretary shall make such provisions as he shall deem to be necessary respecting the winding up of any outstanding affairs of the officers whose offices are abolished by the provisions of this section.

(b) The abolitions effected by the provision of subsection (a) of this section shall exclude the abolition of rights to which the present incumbents of the abolished offices would be entitled under law upon the termination of their appointments.

#### SEC. 3. ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

(a) The Coast and Geodetic Survey and the Weather Bureau are hereby consolidated to form a new agency in the Department of Commerce which shall be known as the Environmental Science Services Administration, hereinafter referred to as the Administration.

(b) The Secretary shall from time to time establish such constituent organizational entities of the Administration, with such names, as he shall determine.

##### SEC. 4. OFFICERS OF THE ADMINISTRATION

(a) There shall be at the head of the Administration the Administrator of the Environmental Science Services Administration, hereinafter referred to as the Administrator. The Administrator shall be appointed by the President by and with the advice and consent of the Senate. He shall perform such functions as the Secretary may from time to time direct.

(b)(1) There shall be in the Administration a Deputy Administrator of the Environmental Science Services Administration, hereinafter referred to as the Deputy Administrator, who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Secretary may from time to time direct, and, unless he is compensated in pursuance of the provisions of paragraph (2), below, shall receive compensation in accordance with the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees].

(2) The office of Deputy Administrator may be filled at the discretion of the President by appointment (by and with the advice and consent of the Senate) from the active list of commissioned officers of the Adminis-

tration in which case the appointment shall create a vacancy on the active list and while holding the office of Deputy Administrator the officer shall have rank, pay and allowances not exceeding those of a Vice Admiral.

(c) The Deputy Administrator of such other official of the Department of Commerce as the Secretary shall from time to time designate shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(d) At any one time, one principal constituent organizational entity of the Administration may, if the Secretary so elects, be headed by a commissioned officer of the Administration, who shall be designated by the Secretary. Such designation of an officer shall create a vacancy on the active list and while serving under this paragraph the officer shall have rank, pay and allowances not exceeding those of a Rear Admiral (upper half).

(e) Any commissioned officer of the Administration who has served as Deputy Administrator or has served in a rank above that of Captain as the head of a principal constituent organizational entity of the Administration, and is retired while so serving or is retired after the completion of such service while serving in a lower rank or grade, shall be retired with the rank, pay and allowances authorized by law for the highest grade and rank held by him; but any such officer, upon termination of his appointment in a rank above that of Captain, shall, unless appointed or assigned to some other position for which a higher rank or grade is provided, revert to the grade and number he would have occupied had he not served in a rank above that of Captain and such officer shall be an extra number in that grade. [As amended Pub. L. 90-83, §10(c), Sept. 11, 1967, 81 Stat. 224.]

##### SEC. 5. AUTHORITY OF THE SECRETARY

Nothing in this organization plan shall divert the Secretary of any function vested in him by law or by Reorganization Plan No. 5 of 1950 (64 Stat. 1263) [set out in the Appendix to Title 5, Government Organization and Employees] or in any manner derogate from any authority of the Secretary thereunder.

##### SEC. 6. PERSONNEL, PROPERTY, RECORDS AND FUNDS

(a) The personnel (including commissioned officers) employed in the Coast and Geodetic Survey, the personnel employed in the Weather Bureau, and the property and records held or used by the Weather Bureau or the Coast and Geodetic Survey shall be deemed to be transferred to the Administration.

(b) Unexpended balances of appropriations, allocations, and other funds available or to be made available in connection with functions now administered by the Weather Bureau or by the Coast and Geodetic Survey shall be available to the Administration hereunder in connection with those functions.

(c) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the foregoing provisions of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

##### SEC. 7. INTERIM OFFICERS

(a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation at-

tached to the office in respect to which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

[The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration.]

#### MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1965, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended [see now section 901 et seq. of Title 5, Government Organization and Employees], and providing for the reorganization of two major agencies of the Department of Commerce: The Weather Bureau and the Coast and Geodetic Survey.

The reorganization plan consolidates the Coast and Geodetic Survey and the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration. It is the intention of the Secretary of Commerce to transfer the Central Radio Propagation Laboratory of the National Bureau of Standards to the Administration when the reorganization plan takes effect. The new Administration will then provide a single national focus for our efforts to describe, understand, and predict the state of the oceans, the state of the lower and upper atmosphere, and the size and shape of the earth.

Establishment of the Administration will mark a significant step forward in the continual search by the Federal Government for better ways to meet the needs of the Nation for environmental science services. The organizational improvements made possible by the reorganization plan will enhance our ability to develop an adequate warning system for the severe hazards of nature—for hurricanes, tornadoes, floods, earthquakes, and seismic sea waves, which have proved so disastrous to the Nation in recent years. These improvements will permit us to provide better environmental information to vital segments of the Nation's economy—to agriculture, transportation, communications, and industry, which continually require information about the physical environment. They will mean better services to other Federal departments and agencies—to those that are concerned with the national defense, the exploration of outer space, the management of our mineral and water resources, the protection of the public health against environmental pollution, and the preservation of our wilderness and recreation areas.

The new Administration will bring together a number of allied scientific disciplines that are concerned with the physical environment. The integration will better enable us to look at man's physical environment as a scientific whole and to seek to understand the interactions among air, sea, and earth and between the upper and lower atmosphere. It will facilitate the development of programs dealing with the physical environment and will permit better management of these programs. It will enhance our capability to identify and solve important long-range scientific and technological problems associated with the physical environment. The new Administration will, in consequence, promote a fresh sense of scientific dedication, discovery, and challenge, which are essential if we are to attract scientists and engineers of creativity and talent to Federal employment in this field.

The reorganization plan provides for an Administrator at the head of the Administration, and for a Deputy Administrator, each of whom will be appointed by the President by and with the advice and consent of the

Senate. As authorized by the civil service and other laws and regulations, subordinate officers of the Administration will be appointed by the Secretary of Commerce or be assigned by him from among a corps of commissioned officers. The Administration will perform such functions as the Secretary of Commerce may delegate or otherwise assign to it and will be under his direction and control.

Commissioned officers of the Coast and Geodetic Survey will become commissioned officers of the Administration and may serve at the discretion of the Secretary of Commerce throughout the Administration. The reorganization plan authorizes the President at his discretion to fill the Office of Deputy Administrator by appointment, by and with the advice and consent of the Senate, from the active list of commissioned officers of the Administration.

The reorganization plan transmitted herewith abolishes—and thus excludes from the consolidation mentioned above—the offices of (1) Chief of the Weather Bureau, provided for in the act of October 1, 1890 (15 U.S.C. 312); (2) Director of the Coast and Geodetic Survey, provided for in the acts of June 4, 1920, and February 16, 1929, as amended (33 U.S.C. 852, 852a); and (3) Deputy Director of the Coast and Geodetic Survey, provided for in the act of January 19, 1942, as amended (33 U.S.C. 852b).

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 2 of 1965 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended [see now section 901 of Title 5, Government Organization and Employees]. I have also found and hereby declare that by reason of the reorganizations made by the reorganization plan, it is necessary to include in the plan provisions for the appointment and compensation of the officers of the Administration set forth in section 4 of the reorganization plan. The rate of compensation fixed for each of these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

In addition to permitting more effective management within the Department of Commerce, the new organization will ultimately produce economies. These economies will be of two types. The first, and probably the most significant, is the savings and avoidance of costs which will result from the sharing of complex and expensive facilities such as satellites, computers, communication systems, aircraft, and ships. These economies will increase in significance as developments in science and technology bring into being still more advanced equipment. Second, integration of the existing headquarters and field organizations will permit more efficient utilization of existing administrative staffs and thereby produce future economies. It is, however, impracticable to specify or itemize at this time the reductions of expenditures which it is probable will be brought about by the taking effect of the reorganizations included in the reorganization plan.

I recommend that the Congress allow the accompanying reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, May 13, 1965.

#### CROSS REFERENCES

Pay and allowances of commissioned officers of the uniformed services, see section 101 et seq. of Title 37, Pay and Allowances of the Uniformed Services.

**§ 851a. Repealed. June 3, 1948, ch. 390, § 22(a), formerly § 21(a), 62 Stat. 300; renumbered § 22(a), Sept. 14, 1961, Pub. L. 87-233, § 1(f), 75 Stat. 506**

Section, act Jan. 19, 1942, ch. 6, § 1, 56 Stat. 6, related to distribution of the total number of commissioned officers in rank. See section 853a of this title.

**§§ 852 to 852b. Omitted**

## CODIFICATION

Sections, which made provision for a Director of the Coast and Geodetic Survey and for a Deputy Director and covered their appointment, rank, pay, and allowances, have been omitted in view of 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title, which abolished such offices and transferred their functions to the Secretary of Commerce. For further details, see Transfer of Functions note set out under section 851 of this title.

Section 852, acts June 4, 1920, ch. 228, §1, 41 Stat. 825; June 5, 1920, ch. 235, §1, 41 Stat. 929; Feb. 16, 1929, ch. 221, §5, 45 Stat. 1187; Mar. 18, 1936, ch. 147, 49 Stat. 1164, provided for the appointment and reappointment of the Director of the Coast and Geodetic Survey.

Section 852a, acts Feb. 16, 1929, ch. 221, §5, 45 Stat. 1187; Mar. 18, 1936, ch. 147, 49 Stat. 1164; June 3, 1948, ch. 390, §21(a), formerly §20(a), 62 Stat. 300; renumbered §21(a), Sept. 14, 1961, Pub. L. 87-233, §1(f), 75 Stat. 506, provided for the rank, pay, and allowances of the Director.

Section 852b, acts Jan. 19, 1942, ch. 6, §8, 56 Stat. 8; June 3, 1948, ch. 390, §21(b), formerly §20(b), 62 Stat. 300; renumbered §21(b), Sept. 14, 1961, Pub. L. 87-233, §1(f), 75 Stat. 506; June 21, 1955, ch. 172, §3(b), 69 Stat. 169; June 30, 1960, Pub. L. 86-554, §1, 74 Stat. 258, provided for the appointment, active and retired rank, pay, and allowances, of the Deputy Director of the Coast and Geodetic Survey.

**§ 853. Power to settle claims**

The Secretary of Commerce is authorized to consider, ascertain, adjust, and determine all claims for damages, where the amount of the claim does not exceed \$2,500, occasioned, subsequent to June 5, 1920, by acts for which the National Oceanic and Atmospheric Administration is responsible.

(June 5, 1920, ch. 256, 41 Stat. 1054; Jan. 2, 1975, Pub. L. 93-608, §1(4), 88 Stat. 1967; Nov. 29, 1983, Pub. L. 98-176, 97 Stat. 1124.)

## AMENDMENTS

1983—Pub. L. 98-176 amended section generally, substituting “The Secretary of Commerce is” for “The Superintendent of the Coast and Geodetic Survey, subject to the approval of the Secretary of Commerce, is hereby”, “\$2,500” for “\$500”, and “the National Oceanic and Atmospheric Administration is responsible” for “the Coast and Geodetic Survey shall be found to be responsible”.

1975—Pub. L. 93-608 struck out reporting requirement to Congress of amounts ascertained and determined due for payment as legal claims out of Congressional appropriations.

## REPEALS

Act Aug. 2, 1946, ch. 753, title IV, §424(a), 60 Stat. 846, repealed this section insofar as it concerned claims cognizable under sections 921 and 922 of former Title 28, Judicial Code and Judiciary (see sections 2672 and 2673 of Title 28, Judiciary and Judicial Procedure) which are caused by the negligent or wrongful act or omission of any Government employee acting within the scope of his employment, but by section 424(b) of that act, section 946 of former Title 28 (see note set out under section 2680 of Title 28), this section is specifically saved with reference to any claim which is not caused by the negligent or wrongful act or omission of any Government employee acting within the scope of his employment.

**§ 853a. Authorized numbers in permanent rank****(a) Relative rank; proportion**

Of the total authorized number of commissioned officers on the active list of the National Oceanic and Atmospheric Administration, there are authorized numbers in permanent grade, in relative rank with officers of the Navy, in the proportion of eight in the grade of captain, to fourteen in the grade of commander, to nineteen in the grade of lieutenant commander, to twenty-three in the grade of lieutenant, to eighteen in the grade of lieutenant (junior grade), to eighteen in the grade of ensign.

**(b) Computation of number in grade**

Whenever a final fraction occurs in computing the authorized number of officers in any grade, the nearest whole number shall be taken, and if such fraction be one-half the next higher whole number shall be taken: *Provided*, That the total number of officers as authorized by law shall not be increased as the result of the computations prescribed herein, and if necessary the number of officers in the lowest grade shall be reduced accordingly.

**(c) Reduction of grade or pay; separation**

No officer shall be reduced in grade or pay or separated from the active list as the result of any computations made to determine the authorized number of officers in the various grades.

**(d) Filling of vacancies; additional numbers**

Nothing in this section shall be construed as requiring the filling of any vacancy or as prohibiting additional numbers in any grade to compensate for vacancies existing in higher grades.

**(e) Temporary increase in numbers**

The total number of officers on active duty as authorized by law may be temporarily exceeded provided that the average number on active duty for the fiscal year shall not exceed the authorized number.

(June 3, 1948, ch. 390, §2, 62 Stat. 297; Sept. 14, 1961, Pub. L. 87-233, §1(a), 75 Stat. 506; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

## AMENDMENTS

1961—Subsec. (e). Pub. L. 87-233 added subsec. (e).

## SHORT TITLE

Section 1 of act June 3, 1948, provided: “That this Act [enacting this section and sections 853b to 853o and 853p to 853t of this title, amending this section and section 852b of this title, and repealing sections 854b and 854c of this title] may be cited as the ‘Coast and Geodetic Survey Commissioned Officers’ Act of 1948’.”

## TRANSFER OF FUNCTIONS

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and commissioned officers of Survey transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director of Survey. Subsequently, Environmental Science Services Admin-

istration abolished, National Oceanic and Atmospheric Administration established, and Commissioned Officer Corps of ESSA redesignated Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. For further details, see note set out under section 851 of this title.

**§ 853b. Promotion by selection to grades above lieutenant (junior grade)**

Promotion to fill vacancies in all permanent grades above that of lieutenant (junior grade) shall be made by selection from the next lower respective grades upon recommendation of the personnel board hereinafter provided for.

(June 3, 1948, ch. 390, § 3, 62 Stat. 298.)

**§ 853c. Consideration of all eligible officers for promotion purposes; date of promotion; separation from service**

Irrespective of any vacancies, each officer in the permanent grade of lieutenant (junior grade) and lieutenant shall be considered by the personnel board for promotion to the grade of lieutenant and lieutenant commander in sufficient time so that, if found fully qualified, such officer may be promoted to and appointed in such grade upon completion of seven and fourteen years of service, respectively. All promotions under this section shall be made on the date on which the required service is completed, and the authorized number of officers in the grade of lieutenant and lieutenant commander shall be temporarily increased, if necessary, to authorize such appointments: *Provided*, That an officer found not fully qualified in accordance with this section may be promoted on such later date on which he may be found fully qualified.

(June 3, 1948, ch. 390, § 4, 62 Stat. 298.)

**§ 853d. Promotions to permanent grades of commander and captain; time**

Irrespective of any vacancies, any officer in the permanent grade of lieutenant commander who has completed twenty-one years of service and any officer in the permanent grade of commander who has completed thirty years of service may be considered by the personnel board at any time for promotion to the grade of commander and captain, respectively. If selected, he may be promoted at any time and the authorized number of officers in the grade of commander and captain shall be temporarily increased, if necessary, to authorize such appointments.

(June 3, 1948, ch. 390, § 5, 62 Stat. 298.)

**§ 853e. Promotion of ensigns; separation from service**

(a) Officers in the permanent grade of ensign shall be promoted to and appointed in the grade of lieutenant (junior grade) on completion of three years of service, and the authorized number of officers in the grade of lieutenant (junior grade) shall from time to time be temporarily increased as necessary to authorize such appointments.

(b) Ensigns who are found not fully qualified at any time shall have their commissions revoked and be separated from the commissioned service.

(June 3, 1948, ch. 390, § 6, 62 Stat. 298; June 21, 1955, ch. 172, § 4(a), 69 Stat. 169; Sept. 14, 1961, Pub. L. 87-233, § 1(b), 75 Stat. 506.)

AMENDMENTS

1961—Subsec. (a). Pub. L. 87-233 struck out proviso authorizing officers in permanent grade of ensign to be promoted to and appointed in grade of lieutenant (junior grade) upon completion of two years' service whenever there are vacancies in grade of lieutenant (junior grade).

1955—Subsec. (a). Act June 21, 1955, inserted proviso.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b) delegated to Secretary of Commerce, see section 1(a) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, set out as a note under section 301 of Title 3, The President.

**§ 853f. Length of service for promotion purposes**

Each officer shall be assumed to have, for promotion purposes, at least the same length of service as any officer below him on the lineal list, except that an officer who has lost numbers shall be assumed to have for promotion purposes no greater service than the officer next above him in his new position on the lineal list.

(June 3, 1948, ch. 390, § 7, 62 Stat. 298.)

**§ 853g. Retirement or separation of officers**

**(a) Transfer of officers to retired list; separation from service**

As recommended by the personnel board—

(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

**(b) Computations**

In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) of this section plus the number of officers retired for age may not exceed the whole number nearest four percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

**(c) Effective date of retirements and separations**

Any retirement or separation under subsection (a) of this section shall take effect on the first day of the sixth month beginning after the date on which the Secretary of Commerce approves the retirement or separation, except that if the officer concerned requests earlier retirement or separation, the date shall be as determined by the Secretary.

(June 3, 1948, ch. 390, § 8, 62 Stat. 298; Oct. 19, 1984, Pub. L. 98-498, title III, § 320(a)(1), 98 Stat. 2307.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-498 designated provisions preceding first proviso as subsec. (a) and added par. designations, struck out lieutenant commander from those eligible to be transferred to the retired list and added it to those who may be separated from the service, and inserted "who is not qualified for retirement" after "(junior grade)" in par. (2) as so designated.

Subsec. (b). Pub. L. 98-498 designated provisions in first proviso as subsec. (b) and substituted "may not

exceed the whole number nearest four percent of the total number of officers authorized to be on the active list," for "shall not exceed the whole number nearest 4 per centum of the total authorized number of commissioned officers on the active list,".

Subsec. (c). Pub. L. 98-498 designated provisions in second proviso as subsec. (c) and substituted "Any retirement or separation under subsection (a) of this section shall take effect on the first day of the sixth month beginning after the date on which the Secretary of Commerce approves the retirement or separation, except that if the officer concerned requests earlier retirement or separation, the date shall be as determined by the Secretary" for "That all retirements and separations pursuant to this section shall become effective on the first day of the sixth month following the date of approval of the retirement or separation by the Secretary of Commerce, unless the officer concerned requests earlier retirement or separation, in which case the date shall be as determined by the Secretary of Commerce".

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 853h of this title.

### § 853h. Separation pay of officers

#### (a) Authorization of payment

An officer who is separated under section 853g of this title and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) of this section unless the Secretary of Commerce determines that the conditions under which the officer is separated do not warrant payment of that pay.

#### (b) Amount of pay; five or more years; three to five years

(1) In the case of an officer who has completed five or more years of continuous active service immediately before that separation, the amount of separation pay which may be paid to the officer under this section is 10 percent of the product of (A) the years of active service creditable to the officer, and (B) twelve times the monthly basic pay to which the officer was entitled at the time of separation, or \$30,000, whichever is less.

(2) In the case of an officer who has completed three but fewer than five years of continuous active service immediately before that separation, the amount of separation pay which may be paid to the officer under this section is one-half of the amount computed under paragraph (1), but in no event more than \$15,000.

#### (c) Determination of officer's years of service

In determining an officer's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the officer is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

#### (d) Previously received pay excluded from determination of years of creditable service; limitation on total payment

(1) A period for which an officer has previously received separation pay, severance pay, or readjustment pay under any other provision of law based on service in a uniformed service may not

be included in determining the years of creditable service that may be counted in computing the separation pay of the officer under this section.

(2) The total amount that an officer may receive in separation pay under this section and separation pay, severance pay, and readjustment pay under any other provision of law based on service in a uniformed service may not exceed \$30,000.

#### (e) Deduction from retired pay of amount of prior payments; deduction from disability compensation of amount of separation pay; exception

(1) An officer who has received separation pay under this section, or separation pay, severance pay, or readjustment pay under any other provision of law, based on service in a uniformed service and who later qualifies for retired pay under this Act shall have deducted from each payment of retired pay so much of that pay as is based on the service for which the officer received that separation pay, severance pay, or readjustment pay until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay received.

(2) An officer who has received separation pay under this section may not be deprived, by reason of receipt of that pay, of any disability compensation to which the officer is entitled under the laws administered by the Secretary of Veterans Affairs, but there shall be deducted from that disability compensation an amount equal to the total amount of separation pay received. Notwithstanding the preceding sentence, no deduction may be made from disability compensation for the amount of separation pay received because of an earlier discharge, separation, or release from a period of active duty if the disability which is the basis for that disability compensation was incurred or aggravated during a later period of active duty.

(June 3, 1948, ch. 390, §9, 62 Stat. 299; Sept. 7, 1962, Pub. L. 87-649, §9(b)(1), 76 Stat. 495; Oct. 19, 1984, Pub. L. 98-498, title III, §320(a)(1), 98 Stat. 2307; June 13, 1991, Pub. L. 102-54, §13(m)(1), 105 Stat. 277.)

#### REFERENCES IN TEXT

This Act, referred to in subsec. (e)(1), means act June 3, 1948, ch. 390, 62 Stat. 297, as amended, known as the "Coast and Geodetic Survey Commissioned Officers' Act of 1948", which enacted sections 853a to 853o and 853p to 853t of this title, amended sections 852a and 852b of this title, and repealed sections 854b and 854c of this title. For complete classification of this Act to the Code, see Short Title note set out under section 853a of this title and Tables.

#### AMENDMENTS

1991—Subsec. (e)(2). Pub. L. 102-54 substituted "Secretary of Veterans Affairs" for "Veterans' Administration".

1984—Subsec. (a). Pub. L. 98-498 designated existing provisions as subsec. (a) and substituted "An officer" for "Any officer in the grade of lieutenant or lieutenant (junior grade)" and further substituted provisions setting forth the method of computation for former provisions which also set forth the basis for computation.

Subsecs. (b) to (e). Pub. L. 98-498 added subsecs. (b) to (e).

1962—Pub. L. 87-649 substituted “basic pay” for “active-duty pay with longevity credit” in two places.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

**§ 853i. Appointments and promotions made by President; suspension during war or emergency**

(a) Appointments in and promotions to all permanent grades shall be made by the President, by and with the advice and consent of the Senate.

(b) In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in his discretion, to suspend the operation of all or any part or parts of the several provisions of law pertaining to promotion.

(June 3, 1948, ch. 390, § 10, 62 Stat. 299; June 21, 1955, ch. 172, § 4(b), 69 Stat. 170.)

AMENDMENTS

1955—Subsec. (a). Act June 21, 1955, authorized appointments to all permanent grades.

**§ 853j. Examinations for promotion**

Nothing in this Act shall be construed to modify the provisions of existing law relating to examination of officers for promotion, and no officer shall be promoted until he shall have passed the prescribed examinations.

(June 3, 1948, ch. 390, § 11, 62 Stat. 299.)

REFERENCES IN TEXT

This Act, referred to in text, means act June 3, 1948, ch. 390, 62 Stat. 297, as amended, known as the “Coast and Geodetic Survey Commissioned Officers’ Act of 1948”, which enacted sections 853a to 853o and 853p to 853t of this title, amended sections 852a and 852b of this title, and repealed sections 854b and 854c of this title. For complete classification of this Act to the Code, see Short Title note set out under section 853a of this title and Tables.

**§ 853j-1. Temporary appointments and promotions made by President**

**(a) Ensign**

Temporary appointment in the grade of ensign may be made by the President alone, provided such temporary appointment will be terminated at the close of the next regular session of the Congress unless confirmed by the Senate.

**(b) Lieutenant junior grade**

Officers in the permanent grade of ensign may be temporarily promoted to and appointed in the grade of lieutenant junior grade by the President alone whenever vacancies exist in higher grades.

**(c) Any one grade**

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

(June 3, 1948, ch. 390, § 12, as added Sept. 14, 1961, Pub. L. 87-233, § 1(d), 75 Stat. 506; amended Oct. 19, 1984, Pub. L. 98-498, title III, § 320(b), 98 Stat. 2308.)

AMENDMENTS

1984—Subsec. (c). Pub. L. 98-498 substituted “determined” for “deemed necessary or desirable”, “alone. Any” for “alone provided”, and “terminates” for “will terminate”, and struck out qualification to the President’s authority to temporarily promote officers that the number of officers holding temporary promotions not exceed the whole number nearest 1½ per centum of the total number of officers authorized to be on active duty.

DELEGATION OF FUNCTIONS

Functions of President under subsecs. (a), (b) and (c) delegated to Secretary of Commerce, see section 1(b), (c) and (d) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, set out as a note under section 301 of Title 3, The President.

**§ 853k. Retirement of officers**

**(a) For age; effective date**

When any commissioned officer serving in a rank below that of rear admiral has attained the age of sixty years, he shall be placed on the retired list: *Provided*, That this subsection shall not become effective until a date six months subsequent to June 3, 1948, and until such effective date the retirement age for officers serving in a rank below that of rear admiral shall be sixty-two years.

**(b) Admirals for length of service; deferment**

When any officer serving in a rank above that of captain has attained the age of sixty-two years, he shall be placed on the retired list: *Provided*, That the President may, in his discretion, defer placing any such officer on the retired list for the length of time he deems advisable but not later than the date upon which such officer attains the age of sixty-four years.

(June 3, 1948, ch. 390, § 13, formerly § 12, 62 Stat. 299; renumbered § 13, Sept. 14, 1961, Pub. L. 87-233, § 1(c), 75 Stat. 506.)

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b) delegated to Secretary of Commerce, see section 1(e) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, set out as a note under section 301 of Title 3, The President.

**§ 853l. Retirement for length of service upon application**

When any commissioned officer has completed twenty years of service, he may at any time thereafter, upon his own application, in the discretion of the President, be placed on the retired list.

(June 3, 1948, ch. 390, § 14, formerly § 13, 62 Stat. 299; renumbered § 14 and amended Sept. 14, 1961, Pub. L. 87-233, § 1(e), 75 Stat. 506.)

PRIOR PROVISIONS

A prior section 14 of act June 3, 1948, was classified to section 853m of this title prior to repeal by act Oct. 12, 1949.

AMENDMENTS

1961—Pub. L. 87-233 substituted “twenty” for “thirty”.

## DELEGATION OF FUNCTIONS

Functions of the President under this section delegated to the Secretary of Commerce, see section 1(f) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, set out as a note under section 301 of Title 3, The President.

**§§ 853m, 853n. Repealed. Oct. 12, 1949, ch. 681, title V, § 531(b)(41), 63 Stat. 840**

Section 853m, act June 3, 1948, ch. 390, §14, 62 Stat. 299, related to retirement for disability. See section 1201 et seq. of Title 10, Armed Forces.

Section 853n, act June 3, 1948, ch. 390, §15, 62 Stat. 299, related to computation of service for retirement purposes. See sections 1401 et seq., 6321 et seq., and 6371 et seq. of Title 10.

## EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1949, see section 533(a) of act Oct. 12, 1949, set out as an Effective Date of 1949 Amendment note under section 853o of this title.

**§ 853o. Computation of pay upon retirement**

**(a) Officer as member of uniformed service before September 8, 1980**

Each commissioned officer on the retired list who first became a member of a uniformed service (as defined in section 101 of title 10) before September 8, 1980, shall receive retired pay at the rate determined by multiplying—

- (1) the retired pay base determined under section 1406(g) of title 10; by
- (2) 2½ percent of the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

The retired pay so computed may not exceed 75 percent of the retired pay base.

**(b) Officer as member of uniformed service on or after September 8, 1980**

Each commissioned officer on the retired list who first became a member of a uniformed service (as defined in section 101 of title 10) on or after September 8, 1980, shall receive retired pay at the rate determined by multiplying—

- (1) the retired pay base determined under section 1407 of title 10; by
- (2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

**(c) Treatment of full and fractional parts of months in computing years of service; rounding off**

(1) In computing the number of years of service of an officer for the purposes of subsection (a) of this section—

- (A) each full month of service that is in addition to the number of full years of service creditable to the officer shall be credited as ½ of a year; and
- (B) any remaining fractional part of a month shall be disregarded.

(2) Retired pay computed under this section, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.

(June 3, 1948, ch. 390, §16, 62 Stat. 299; Oct. 12, 1949, ch. 681, title V, §531(b)(41), 63 Stat. 840; May

20, 1958, Pub. L. 85-422, §11(c), 72 Stat. 132; Sept. 7, 1962, Pub. L. 87-649, §9(b)(2), 76 Stat. 495; Sept. 8, 1980, Pub. L. 96-342, title VIII, §813(g), 94 Stat. 1110; Sept. 24, 1983, Pub. L. 98-94, title IX, §§922(c), 923(e), 97 Stat. 642, 643; July 1, 1986, Pub. L. 99-348, title II, §206, 100 Stat. 701.)

## AMENDMENTS

1986—Pub. L. 99-348 amended section generally. Prior to amendment, section provided that each commissioned officer on the retired list was to receive retired pay, in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2) of title 10, before Sept. 8, 1980, at the rate of 2½ percent of the basic pay of the rank with which retired, or in the case of an officer who first became a member of a uniformed service on or after Sept. 8, 1980, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(g) of title 10, multiplied by the number of years of service credited, but that the retired pay so computed was not to exceed 75 percent of the monthly retired pay base, provided for rounding of numbers, and provided for treatment of months of service in addition to the number of full years of service.

1983—Subsec. (a). Pub. L. 98-94, §922(c), inserted "Retired pay, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1."

Subsec. (b). Pub. L. 98-94, §923(e), substituted "In computing the number of years of service of an officer for the purposes of subsection (a) of this section, each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded" for "A fractional part of a year of six months or more shall be considered a full year in computing the number of years of service for the purposes of subsection (a) of this section".

1980—Subsec. (a). Pub. L. 96-342 revised provisions into pars. (1) and (2) and substituted provisions respecting computation of retired pay for officers who became members of the uniformed service before September 8, 1980, and for officers who became members of the uniformed service on or after September 8, 1980, for provisions respecting computation of retired pay for officers.

Subsec. (b). Pub. L. 96-342 added subsec. (b).

1962—Subsec. (a). Pub. L. 87-649 substituted "basic pay" for "active-duty pay with longevity credit" in two places.

1958—Subsec. (a). Pub. L. 85-422 substituted "that may be credited to him under section 1405 of title 10 as if his service were service as a member of the armed forces" for "for which entitled to credit in the computation of his pay while on active duty".

1949—Subsec. (b). Act Oct. 12, 1949, repealed subsec. (b) which provided that each commissioned officer retired for physical disability incurred in the line of duty receive retired pay of 75 per centum of his active duty pay with longevity credit of the rank at which retired.

## EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 922 of Pub. L. 98-94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98-94, set out as a note under section 1401 of Title 10, Armed Forces.

Amendment by section 923(e) of Pub. L. 98-94 applicable with respect to the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, see section 923(g) of Pub. L. 98-94, set out as a note under section 1174 of Title 10.

## EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-422 effective June 1, 1958, see section 9 of Pub. L. 85-422.

## EFFECTIVE DATE OF 1949 AMENDMENT

Section 533(a) of act Oct. 12, 1949, provided that: "Except as provided in subsections (b) and (c) of this section, this Act [see Tables for classification] shall become effective on October 1, 1949, and no pay, allowances, or benefits provided herein shall accrue to any person for any period prior thereto."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 1406.

**§ 853o-1. Credit of service as deck officer or junior engineer and certain other active service for retirement and retirement pay**

Active service in the National Oceanic and Atmospheric Administration as a deck officer or junior engineer and active service counted on June 30, 1922, for longevity pay, shall be credited to commissioned officers as active commissioned service for purposes of retirement and retirement pay.

(Pub. L. 87-649, §9(c), Sept. 7, 1962, 76 Stat. 496; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

## CODIFICATION

Section was formerly classified to section 302 of Title 37 prior to the general revision and enactment of Title 37, Pay and Allowances of the Uniformed Services, by Pub. L. 87-649, §1, Sept. 7, 1962, 76 Stat. 451.

## EFFECTIVE DATE

Section effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## TRANSFER OF FUNCTIONS

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and commissioned officers of Survey transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director of Survey. Subsequently, Environmental Science Services Administration abolished, National Oceanic and Atmospheric Administration established, and Commissioned Officer Corps of ESSA redesignated Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see note set out under section 851 of this title.

## CROSS REFERENCES

Service credit as deck officer or junior engineer for promotion purposes, see section 854a of this title.

**§ 853p. Rank upon retirement; pay; "temporary rank" defined**

(a) Each commissioned officer heretofore or hereafter retired pursuant to any provision of law shall be placed on the retired list with the highest rank, permanent or temporary, held by him while on active duty, if his performance of duty, in the case of temporary rank, has been satisfactory as determined by the Secretary of the department or departments under whose jurisdiction the officer served, and shall receive retired pay based on such higher rank: *Provided*,

That for the purposes of this section the words "temporary rank" shall mean temporary rank held prior to June 30, 1946.

(b) Officers on the retired list returned to an inactive status with higher rank pursuant to subsection (a) of this section shall receive retired pay based on such higher rank.

(June 3, 1948, ch. 390, §17, 62 Stat. 300.)

**§ 853q. Retired rank and pay held pursuant to other laws unaffected**

Nothing in this Act shall prevent any officer from being placed on the retired list with the highest rank and with the highest retired pay to which he might be entitled under other provision of law.

(June 3, 1948, ch. 390, §18, 62 Stat. 300.)

## REFERENCES IN TEXT

This Act, referred to in text, means act June 3, 1948, ch. 390, 62 Stat. 297, as amended, known as the "Coast and Geodetic Survey Commissioned Officers' Act of 1948", which enacted sections 853a to 853o and 853p to 853t of this title, amended sections 852a and 852b of this title, and repealed sections 854b and 854c of this title. For complete classification of this Act to the Code, see Short Title note set out under section 853a of this title and Tables.

**§ 853r. Personnel Board; composition; duties; recommendations**

At least once a year and at such other times as may be necessary, the Secretary of Commerce shall appoint a personnel board consisting of not less than five officers not below the permanent rank of commander on the active list, to recommend such changes in the lineal list as the board may determine, and to make selections and recommendations for the promotion, separation, and retirement of officers as herein prescribed: *Provided*, That in case any recommendation by the board is not acceptable to the Secretary of Commerce or to the President, the board shall make such further recommendations as shall be acceptable.

(June 3, 1948, ch. 390, §19, 62 Stat. 300.)

## REFERENCES IN TEXT

Herein, referred to in text, means act June 3, 1948, ch. 390, 62 Stat. 297, as amended, known as the "Coast and Geodetic Survey Commissioned Officers' Act of 1948", which enacted sections 853a to 853o and 853p to 853t of this title, amended sections 852a and 852b of this title, and repealed sections 854b and 854c of this title. For complete classification of this Act to the Code, see Short Title note set out under section 853a of this title and Tables.

**§ 853s. Repealed. Pub. L. 88-431, § 1(c)(2), Aug. 14, 1964, 78 Stat. 440**

Section, act June 3, 1948, ch. 390, §20, as added Sept. 14, 1961, Pub. L. 87-233, §1(g), 75 Stat. 506, related to transportation of motor vehicles for commissioned officers of Survey ordered to make a permanent change of station. See section 857a of this title.

**§ 853t. Original appointments**

**(a) Eligible grades; examination; revocation of commission**

Original appointments may be made in grades up to and including lieutenant after passage of a

mental and physical examination given in accordance with regulations prescribed by the Secretary of Commerce: *Provided*, That the President, under such regulations as he may prescribe, may revoke the commission of any officer appointed under this section during his first three years of service if he is found not qualified for the service.

**(b) Lineal list**

Any person appointed under authority of this section shall be placed on the lineal list of active duty officers in a position commensurate with his age, education, and experience in accordance, with regulations prescribed by the Secretary of Commerce.

**(c) Basic pay service credit**

(1) For the purposes of basic pay any person appointed under this section to the grade of lieutenant or lieutenant (junior grade) shall be considered as having, on date of appointment, three years or one and one-half years service respectively.

(2) If a person appointed under this section is entitled to credit for the purpose of basic pay under other provision of law which would exceed that authorized by subsection (c)(1) of this section he shall be credited with that service in lieu of the credit provided by subsection (c)(1) of this section.

(June 3, 1948, ch. 390, § 23, as added Sept. 14, 1961, Pub. L. 87-233, § 1(h), 75 Stat. 506.)

DELEGATION OF FUNCTIONS

Functions of President under subsec. (a) delegated to Secretary of Commerce, see section 1(g) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, set out as a note under section 301 of Title 3, The President.

**§ 853u. Positions of importance and responsibility**

**(a) Designation; grades; appointment**

The Secretary may designate positions in the Administration as being positions of importance and responsibility for which it is appropriate that commissioned officers of the Administration, if serving in those positions, serve in the grade of vice admiral, rear admiral, or rear admiral (lower half) as designated by the Secretary for each position, and may assign officers to those positions. An officer assigned to any position under this section has the grade designated for that position if appointed to that grade by the President, by and with the advice and consent of the Senate.

**(b) Number of officers appointed**

The number of officers serving on active duty under appointments under this section may not exceed—

- (1) one in the grade of vice admiral;
- (2) three in the grade of rear admiral; and
- (3) three in the grade of rear admiral (lower half).

**(c) Pay and allowances**

An officer appointed to a grade under this section, while serving in that grade, shall have the pay and allowances of the grade to which appointed.

**(d) Effect of appointment**

An appointment of an officer under this section—

(1) does not vacate the permanent grade held by the officer; and

(2) creates a vacancy on the active list.

**(e) Retirement rank, pay, and allowances**

The provisions of section 2(g) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090, 5 U.S.C. App.) apply to an officer who serves in a grade above captain under an appointment under this section in the same manner as if the officer served in that grade under section 2(d) or 2(f) of that Reorganization Plan.

(June 3, 1948, ch. 390, § 24, as added Oct. 19, 1984, Pub. L. 98-498, title III, § 320(c)(1), 98 Stat. 2308; amended Nov. 8, 1985, Pub. L. 99-145, title V, § 514(a)(3), 99 Stat. 628.)

REFERENCES IN TEXT

Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090, 5 U.S.C. App.), referred to in subsec. (e), is set out in the Appendix to Title 5, Government Organization and Employees, and as a note under section 1511 of Title 15, Commerce and Trade.

AMENDMENTS

1985—Subsecs. (a), (b)(3). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore”.

APPOINTMENT OF COMMISSIONED OFFICERS

Section 320(c)(2) of Pub. L. 98-498 provided that: “After the date of the enactment of this Act [Oct. 19, 1984], no appointment of a commissioned officer may be made under section 2(d) or 2(f) of Reorganization Plan Numbered 4 of 1970 (84 Stat. 2090, 5 U.S.C. App.).”

TRANSITIONAL PROVISIONS

Section 320(c)(4) of Pub. L. 98-498 provided that:

“(A) An officer of the commissioned corps of the National Oceanic and Atmospheric Administration who on the day before the date of the enactment of this Act [Oct. 19, 1984] was carried on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the upper half shall after that date be serving in the grade of rear admiral.

“(B) An officer who on the day before the date of the enactment of this Act was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the lower half shall after that date be serving in the grade of commodore, but shall (while serving in that grade) retain the title of rear admiral and be entitled to wear the uniform and insignia of a rear admiral.

“(C) An officer who on the date before the date of the enactment of this Act held the grade of rear admiral on the retired list retains the grade of rear admiral and is entitled to wear the uniform and insignia of a rear admiral.”

**§ 854. Qualification of officers for appointment or promotion generally**

No person shall be appointed ensign and no commissioned officer shall be promoted to a higher permanent grade on the active list until he has passed a satisfactory mental and physical examination in accordance with regulations prescribed by the Secretary of Commerce.

(May 22, 1917, ch. 20, § 16, 40 Stat. 88; June 21, 1955, ch. 172, § 2(a), 69 Stat. 169.)

CODIFICATION

Section is part of section 16 of act May 22, 1917. Portions of the original text were omitted as temporary and executed. Section 16 is also classified to sections 855, 856, 857, and 858 of this title.

## AMENDMENTS

1955—Act June 21, 1955, struck out certain obsolete titles of positions.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 854a-1 of this title.

**§ 854a. Service credit as deck officer or junior engineer for promotion purposes**

For purposes of promotion which is now or may hereafter be authorized for officers appointed after June 30, 1922, there shall be counted in addition to active commissioned service, service as deck officer and junior engineer.

(Jan. 19, 1942, ch. 6, § 2, 56 Stat. 6; June 3, 1948, ch. 390, § 22(a), formerly § 21(a), 62 Stat. 300; renumbered § 22(a), Sept. 14, 1961, Pub. L. 87-233, § 1(f), 75 Stat. 506; Oct. 12, 1949, ch. 681, title V, § 531(b)(32), 63 Stat. 839; June 21, 1955, ch. 172, § 3(a), 69 Stat. 169.)

## AMENDMENTS

1955—Act June 21, 1955, credited all service as deck officer and junior engineer.

1949—Act Oct. 12, 1949, repealed that part of second proviso of subsec. (b) relating to service credit as deck officer or junior engineer for pay, longevity pay, or retirement purposes.

1948—Act June 3, 1948, repealed subsecs. (a), (c), (d) and all of subsec. (b) except for second proviso which now comprises this section.

## EFFECTIVE DATE OF AMENDMENT

Amendment by act Oct. 12, 1949, effective Oct. 1, 1949, see section 533(a) of act Oct. 12, 1949, set out as an Effective Date of 1949 Amendment note under section 853o of this title.

## CROSS REFERENCES

Credit of service as deck officer or junior engineer and certain other active service for retirement and retirement pay, see section 853o-1 of this title.

**§ 854a-1. Temporary appointment or advancement of commissioned officers in time of war or national emergency**

Personnel of the National Oceanic and Atmospheric Administration shall be subject in like manner and to the same extent as personnel of the Navy to all laws authorizing temporary appointment or advancement of commissioned officers in time of war or national emergency subject to the following limitations:

(1) Commissioned officers in the service of a military department, under the provisions of sections 854, 855, 856, 857, and 858 of this title may, upon the recommendation of the Secretary of the military department concerned, be temporarily promoted to higher ranks or grades.

(2) Commissioned officers in the service of the National Oceanic and Atmospheric Administration may be temporarily promoted to fill vacancies in ranks and grades caused by the transfer of commissioned officers to the service and jurisdiction of a military department under the provisions of sections 854, 855, 856, 857, and 858 of this title.

(3) Temporary appointments may be made in all grades to which original appointments in the National Oceanic and Atmospheric Admin-

istration are authorized: *Provided*, That the number of officers holding temporary appointments shall not exceed the number of officers transferred to a military department under the provisions of sections 854, 855, 856, 857, and 858 of this title.

(Dec. 3, 1942, ch. 670, § 1, 56 Stat. 1038; Oct. 14, 1966, Pub. L. 89-657, § 3, 80 Stat. 907; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

## AMENDMENTS

1966—Pub. L. 89-657 struck out reference to act of July 24, 1941 (Public, Numbered 188, Seventy-seventh Congress) which, for purposes of codification, has been changed to sections 350 to 350j of former title 34 and substituted Environmental Science Services Administration for Coast and Geodetic Survey, temporary advancement of commissioned officers for temporary promotions, military departments for Department of the Army or Navy Department, Secretary of the military department concerned for Secretary of the Army or Secretary of the Navy, and reference to temporary appointments in all grades to which original appointments in the Environmental Science Services Administration are authorized for reference to temporary appointment of regularly appointed deck officers and junior engineers to the rank and grade of ensign.

## TRANSFER OF FUNCTIONS

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and commissioned officers of Survey transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director of Survey. Subsequently, Environmental Science Services Administration abolished, National Oceanic and Atmospheric Administration established, and Commissioned Officer Corps of ESSA redesignated Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see note set out under section 851 of this title.

## DELEGATION OF FUNCTIONS

Functions of President under subsecs. (1), (2), and (3) delegated to Secretary of Commerce, see section 1(b), (i) and (j) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, set out as a note under section 301 of Title 3, The President.

**§ 854a-2. Pay and allowances; date of acceptance of promotion**

Any commissioned officer of the National Oceanic and Atmospheric Administration promoted to a higher grade at any time after December 7, 1941, shall be deemed for all purposes to have accepted his promotion to higher grade upon the date such promotion is made by the President unless he shall expressly decline such promotion, and shall receive the pay and allowances of the higher grade from such date unless he is entitled under some other provision of law to receive the pay and allowances of the higher grade from an earlier date. No such officer who shall have subscribed to the oath of office required by section 3331 of title 5, shall be required to renew such oath or to take a new oath upon his promotion to a higher grade, if his service

after the taking of such an oath shall have been continuous.

(Dec. 3, 1942, ch. 670, § 3, 56 Stat. 1039; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

#### CODIFICATION

“Section 3331 of title 5” substituted in text for “section 1757, Revised Statutes” on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. Section 1757 of the Revised Statutes had been classified to section 16 of former Title 5, Executive Departments and Government Officers and Employees.

#### TRANSFER OF FUNCTIONS

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and commissioned officers of Survey transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director of Survey. Subsequently, Environmental Science Services Administration abolished, National Oceanic and Atmospheric Administration established, and Commissioned Officer Corps of ESSA redesignated Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see note set out under section 851 of this title.

#### §§ 854b, 854c. Repealed. June 3, 1948, ch. 390, § 22(a), formerly § 21(a), 62 Stat. 300; renumbered § 22(a), Sept. 14, 1961, Pub. L. 87-233, § 1(f), 75 Stat. 506

Section 854b, act Jan. 19, 1942, ch. 6, § 3, 56 Stat. 7, related to composition, powers and duties of a Personnel Board. See section 853r of this title.

Section 854c, act Jan. 19, 1942, ch. 6, § 4, 56 Stat. 7, related to submission of reports of the Personnel Boards to the President. See section 853r of this title.

#### § 855. Cooperation with and transfer to military departments

The President is authorized, whenever in his judgment a sufficient national emergency exists, to transfer to the service and jurisdiction of a military department such vessels, equipment, stations, and commissioned officers of the National Oceanic and Atmospheric Administration as he may deem to be the best interest of the country, and after such transfer all expenses connected therewith shall be defrayed out of the appropriations for the department to which transfer is made: *Provided*, That such vessels, equipment, stations, and commissioned officers shall be returned to the National Oceanic and Atmospheric Administration when such national emergency ceases, in the opinion of the President, and nothing in this section shall be construed as transferring the National Oceanic and Atmospheric Administration or any of its functions from the Department of Commerce except in time of national emergency and to the extent herein provided: *Provided further*, That any of the commissioned officers of the National Oceanic and Atmospheric Administration who may be transferred as provided in this section,

shall, while under the jurisdiction of a military department, have proper military status and shall be subject to the laws, regulations, and orders for the government of the Army, Navy, or Air Force, as the case may be, insofar as the same may be applicable to persons whose retention permanently in the military service of the United States is not contemplated by law.

(May 22, 1917, ch. 20, § 16, 40 Stat. 87; Oct. 14, 1966, Pub. L. 89-657, § 1(1), 80 Stat. 907; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; Oct. 14, 1966, Pub. L. 89-657, § 1(1), 80 Stat. 907; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

#### CODIFICATION

Section is part of section 16 of act May 22, 1917. Section 16 is also classified to sections 854, 856, 857, and 858 of this title.

#### AMENDMENTS

1966—Pub. L. 89-657 amended section generally, substituting military departments for Department of the Army and Navy Department as the agencies to which transfer of jurisdiction may be made in a national emergency, substituting commissioned officers of the Environmental Science Services Administration for personnel of the Coast and Geodetic Survey as the personnel subject to transfer in a national emergency, substituting “this section” for “this Act”, and adding the Air Force to the Army and Navy as a department to which the transferred personnel shall be subject.

#### TRANSFER OF FUNCTIONS

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and commissioned officers of Survey transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director of Survey. Subsequently, Environmental Science Services Administration abolished, National Oceanic and Atmospheric Administration established, and Commissioned Officer Corps of ESSA redesignated Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see note set out under section 851 of this title.

#### DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Commerce, see section 1(k) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, set out as a note under section 301 of Title 3, The President.

#### TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of sections 855, 856, 857, and 858 of this title, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by the Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

#### TRANSFER OF OFFICERS AND VESSELS

By reason of the national emergency certain vessels of the Coast and Geodetic Survey were transferred to the jurisdiction of the Navy Department and certain officers of the Survey were transferred to the jurisdiction of the Navy and War Departments by Ex. Ord. No. 9072, Feb. 24, 1942, 7 F.R. 1531; Ex. Ord. No. 9113, Mar. 28, 1942, 7 F.R. 2495; Ex. Ord. No. 9187, June 30, 1942, 7 F.R. 5035; Ex. Ord. No. 9236, Sept. 3, 1942, 7 F.R. 6988.

## REDUCTION IN RANK, PAY, OR ALLOWANCES

Section 13 of act May 22, 1917, provided that: "Nothing contained in this Act [see Tables for classification] shall operate to reduce the rank, pay, or allowances that would have been received by any person in the Navy, Marine Corps, or Coast Guard except for the passage of this Act."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 854a-1 of this title.

**§ 855a. Repealed. Pub. L. 85-857, § 14(79), Sept. 2, 1958, 72 Stat. 1272**

Section, acts Dec. 3, 1942, ch. 670, §2, 56 Stat. 1038; Aug. 16, 1954, ch. 738, 68 Stat. 730, related to rights and benefits of commissioned officers of Coast and Geodetic Survey assigned to projects of Army and Navy outside continental United States or in hazardous military areas.

## EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as an Effective Date note preceding Part I of Title 38, Veterans' Benefits.

**§ 856. Relative rank of officers when serving with Army, Navy, or Air Force**

When serving with the Army, Navy, or Air Force, commissioned officers of the National Oceanic and Atmospheric Administration shall rank with and after officers of corresponding grade in the Army, Navy, or Air Force of the same length of service in grade.

And nothing in this Act shall be construed to affect or alter their rates of pay and allowances when not assigned to military duty as hereinbefore mentioned.

(May 22, 1917, ch. 20, §16, 40 Stat. 88; June 21, 1955, ch. 172, §2(b), 69 Stat. 169; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

## REFERENCES IN TEXT

This Act, referred to in text, means act May 22, 1917, ch. 20, 40 Stat. 84, as amended, which, insofar as it was classified to the Code, enacted sections 854, 855, 856, 857 and 858 of this title, and sections 1, 152, 212 to 216, 280, 284, 297, 322, 323, 424, 425, 640 and 864 of former Title 34, Navy, and amended section 96 of former Title 18, Criminal Code and Criminal Procedure. For complete classification of this Act to the Code, see Tables.

## CODIFICATION

Section is part of section 16 of act May 22, 1917. Section 16 is also classified to sections 854, 855, 857, and 858 of this title.

## AMENDMENTS

1955—Act June 21, 1955, provided that officers of the Coast and Geodetic Survey shall rank with and after officers of the corresponding grade of the same length of service in grade.

## TRANSFER OF FUNCTIONS

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and commissioned officers of Survey transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of

Coast and Geodetic Survey and Director of Survey. Subsequently, Environmental Science Services Administration abolished, National Oceanic and Atmospheric Administration established, and Commissioned Officer Corps of ESSA redesignated Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see note set out under section 851 of this title.

## TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, §3, 61 Stat. 451, provided that in the interpretation of sections 855, 856, 857, and 858 of this title, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by the Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 854a-1 of this title.

**§ 857. Service for purposes of servicemen's and veterans' benefits**

Active service of commissioned officers of the National Oceanic and Atmospheric Administration shall be deemed to be active military service for the purposes of all laws administered by the Secretary of Veterans Affairs (except the Servicemen's Indemnity Act of 1951) and section 417 of title 42, and for the purposes of section 410 of title 42 as in effect prior to the Social Security Act Amendments of 1950.

(May 22, 1917, ch. 20, §16, 40 Stat. 88; Aug. 1, 1956, ch. 837, title V, §501(d)(1), 70 Stat. 883; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; June 13, 1991, Pub. L. 102-54, §13(m)(2), 105 Stat. 277.)

## REFERENCES IN TEXT

The Servicemen's Indemnity Act of 1951, referred to in text, is act Apr. 25, 1951, ch. 39, pt. I, 65 Stat. 33, which was classified generally to subchapter II (§851 et seq.) of chapter 13 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and was repealed by act Aug. 1, 1956, ch. 837, title V, §502(9), 70 Stat. 886.

Section 410 of title 42 as in effect prior to the Social Security Act Amendments of 1950, referred to in text, means section 410 of Title 42, The Public Health and Welfare, as in effect prior to Sept. 1, 1950, which was the effective date of section 105 of act Aug. 28, 1950, ch. 809, title I, 64 Stat. 492, which struck out the former provisions of section 410.

## CODIFICATION

Section is part of section 16 of Act May 22, 1917. Section 16 is also classified to sections 854, 855, 856 and 858 of this title.

## AMENDMENTS

1991—Pub. L. 102-54 substituted "Secretary of Veterans Affairs" for "Veterans' Administration".

1956—Act Aug. 1, 1956, substituted provision that active service of commissioned officers shall be deemed to be active military service for the purposes of all laws administered by the Veterans' Administration (except the Servicemen's Indemnity Act of 1951) and section 417 of title 42, and for the purposes of section 410 of title 42 as in effect prior to the Social Security Act Amendments of 1950 for former provision granting the benefit of all provisions of law relating to disability incurred in line of duty or loss of life to members of the

Coast and Geodetic Survey while actually employed in active service under orders of the War or Navy Department.

**EFFECTIVE DATE OF 1956 AMENDMENT; APPLICABILITY**

Section 501(d)(2) of act Aug. 1, 1956, provided that: "The amendment made by this subsection [to this section] (A) shall apply only with respect to service performed on or after July 29, 1945, (B) shall not be construed to affect the entitlement of any person to benefits under the Veterans' Readjustment Assistance Act of 1952 [section 901 et seq. of former Title 38, Pensions, Bonuses and Veterans' Relief], (C) shall not be construed to authorize any payment under section 202(i) of the Social Security Act [section 402(i) of Title 42, The Public Health and Welfare], or under Veterans Regulation Numbered 9(a) [formerly classified to Chapter 12A of former title 38], for any death occurring prior to January 1, 1957, and (D) shall not be construed to authorize payment of any benefits for any period prior to January 1, 1957."

**TRANSFER OF FUNCTIONS**

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and commissioned officers of Survey transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director of Survey. Subsequently, Environmental Science Services Administration abolished, National Oceanic and Atmospheric Administration established, and Commissioned Officer Corps of ESSA redesignated Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see note set out under section 851 of this title.

**TERMINATION OF WAR AND EMERGENCIES**

Joint Res. July 25, 1947, ch. 327, §3, 61 Stat. 451, provided that in the interpretation of sections 855, 856, 857, and 858 of this title, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by the Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 854a-1 of this title.

**§ 857-1. National Oceanic and Atmospheric Administration; definitions**

Definitions listed in section 101 of title 10 apply to this Act, except as noted below:

- (1) "active duty" means full-time duty in the active service of a uniformed service;
- (2) "Administration" means the National Oceanic and Atmospheric Administration;
- (3) "grade" means a step or degree, in a graduated scale of office or rank, that is established and designated as a grade by law or regulation;
- (4) "officer" means a commissioned officer;
- (5) "Secretary" means the Secretary of Commerce;
- (6) "Secretary concerned" is defined in section 101 of title 37;
- (7) "uniformed services" is defined in section 101 of title 37.

(Pub. L. 91-621, §1, Dec. 31, 1970, 84 Stat. 1863.)

**REFERENCES IN TEXT**

This Act, referred to in text, means Pub. L. 91-621, Dec. 31, 1970, 84 Stat. 1863, as amended, which enacted sections 857-1 to 857-5 of this title, amended sections 1715g and 1715m of Title 12, Banks and Banking, and sections 101 and 3105 (now 5305) of Title 38, Veterans' Benefits, and enacted provisions set out as notes under this section and section 101 of Title 38. For complete classification of this Act to the Code, see Tables.

**REPEALS**

Section 8 of Pub. L. 91-621 provided that: "All provisions of law inconsistent with this Act [see References in Text note above] are hereby repealed."

**§ 857-2. Retirement of officers; retired grade; retired pay; conditions: satisfactory service, length of service**

Each officer retired pursuant to any provision of law shall be placed on the retired list with the highest grade satisfactorily held by him while on active duty including active duty pursuant to recall, under permanent or temporary appointment, and he shall receive retired pay based on such highest grade: *Provided*, That his performance of duty in such highest grade has been satisfactory, as determined by the Secretary of the department or departments under whose jurisdiction the officer served, and, unless retired for disability, his length of service in such highest grade is no less than that required by the Secretary of officers retiring under permanent appointment in that grade.

(Pub. L. 91-621, §2, Dec. 31, 1970, 84 Stat. 1863.)

**§ 857-3. Service for purposes of certain rights, privileges, immunities, and benefits; exercise of authority by Secretary of Commerce**

(a) Active service of officers of the Administration shall be deemed to be active military service in the armed forces of the United States for the purposes of all rights, privileges, immunities, and benefits now or hereafter provided by—

- (1) laws administered by the Secretary of Veterans Affairs;
- (2) laws administered by the Interstate Commerce Commission; and
- (3) the Soldiers' and Sailors' Civil Relief Act of 1940, as amended [50 App. U.S.C. 501 et seq.].

In the administration of these laws and regulations, with respect to the National Oceanic and Atmospheric Administration, the authority vested in the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force and their respective departments shall be exercised by the Secretary of Commerce.

(b) The Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation.

(Pub. L. 91-621, §3, Dec. 31, 1970, 84 Stat. 1863; Pub. L. 98-498, title III, §310(a), Oct. 19, 1984, 98 Stat. 2306; Pub. L. 102-54, §13(m)(3), June 13, 1991, 105 Stat. 277.)

**REFERENCES IN TEXT**

The Soldiers' and Sailors' Civil Relief Act of 1940, as amended, referred to in subsec. (a)(3), is act Oct. 17,

1940, ch. 888, 54 Stat. 1178, as amended, which is classified to section 501 et seq. of Title 50, Appendix, War and National Defense. For complete classification of this Act to the Code, see section 501 of Title 50, Appendix, and Tables.

#### AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102-54 substituted “Secretary of Veterans Affairs” for “Veterans’ Administration”.

1984—Pub. L. 98-498 designated existing provisions as subsec. (a) and added subsec. (b).

#### ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

#### § 857-4. Commissary privileges

##### (a) Extension of privilege

Commissioned officers, ships’ officers, and members of crews of vessels of the Administration shall be permitted to purchase commissary and quartermaster supplies as far as available from the armed forces at the prices charged officers and enlisted men of those services.

##### (b) Sales of rations, stores, uniforms, and related equipment

The Secretary may purchase ration supplies for messes, stores, uniforms, accouterments, and related equipment for sale aboard ship and shore stations of the Administration to members of the uniformed services and to personnel assigned to such ships or shore stations. Sales shall be in accordance with regulations prescribed by the Secretary, and proceeds therefrom shall, as far as is practicable, fully reimburse the appropriations charged without regard to fiscal year.

##### (c) Widows’ rights

Rights extended to members of the uniformed services in this section are extended to their widows and to such others as are designated by the Secretary concerned.

(Pub. L. 91-621, § 4, Dec. 31, 1970, 84 Stat. 1863.)

#### PRIOR PROVISIONS

Provisions contained in subsec. (a) were formerly contained in section 868a of this title.

#### § 857-5. General provisions

##### (a) Statutes applicable to officers of the Environmental Science Services Administration; service in Coast and Geodetic Survey as service in such Administration

All statutes that applied to commissioned officers of the Coast and Geodetic Survey on July 12, 1965, shall apply to officers of the Environmental Science Services Administration on that date and subsequent thereto, unless amended or repealed, and service as a commissioned officer in the Coast and Geodetic Survey shall con-

stitute service as a commissioned officer in the Environmental Science Services Administration.

##### (b) Statutes applicable to officers of the Environmental Science Services Administration; service in certain agencies as service in the National Oceanic and Atmospheric Administration

All statutes that applied to commissioned officers of the Coast and Geodetic Survey on July 12, 1965, and to commissioned officers of the Environmental Science Services Administration subsequent to that date shall apply to officers of the National Oceanic and Atmospheric Administration on October 3, 1970, and subsequent thereto, unless amended or repealed, and service as a commissioned officer in the Coast and Geodetic Survey or the Environmental Science Services Administration shall constitute service as a commissioned officer in the National Oceanic and Atmospheric Administration.

##### (c) Change in pay or allowances

The enactment of this Act does not increase or decrease the pay or allowances of any person.

##### (d) References in other laws, regulations, and orders

A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provisions enacted by this Act.

##### (e) Rules, regulations, and orders; continuing effect

An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provisions enacted by this Act until repealed, amended, or superseded.

##### (f) Construction of provisions; arrangement and headings

An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.

##### (g) Separability

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

(Pub. L. 91-621, § 5, Dec. 31, 1970, 84 Stat. 1864.)

#### REFERENCES IN TEXT

This Act, referred to in subssecs. (c) to (g), means Pub. L. 91-621, Dec. 31, 1970, 84 Stat. 1863, as amended, which enacted sections 857-1 to 857-5 of this title, amended sections 1715g and 1715m of Title 12, Banks and Banking, and sections 101 and 3105 (now 5305) of Title 38, Veterans’ Benefits, and enacted provisions set out as notes under section 857-1 of this title and section 101 of Title 38. For complete classification of this Act to the Code, see Tables.

#### §§ 857-6 to 857-12. Repealed. Pub. L. 95-63, § 7(a), July 5, 1977, 91 Stat. 267

Section 857-6, Pub. L. 92-125, § 1, Aug. 16, 1971, 85 Stat. 344, established National Advisory Committee on Oceans and Atmosphere. See section 857-13 of this title.

Section 857-7, Pub. L. 92-125, § 2, Aug. 16, 1971, 85 Stat. 344, provided for membership, terms of office, duties, and Chairman and Vice Chairman of Committee. See section 857-14 of this title.

Section 857-8, Pub. L. 92-125, § 3, Aug. 16, 1971, 85 Stat. 344, provided for designation of a senior policy official of Federal departments and agencies to assist Committee. See section 857-17(a) of this title.

Section 857-9, Pub. L. 92-125, § 4, Aug. 16, 1971, 85 Stat. 344; Pub. L. 94-69, § 2, Aug. 5, 1975, 89 Stat. 384, provided for an annual report by Committee. See section 857-15 of this title.

Section 857-10, Pub. L. 92-125, § 5, Aug. 16, 1971, 85 Stat. 344, provided for compensation and travel expenses of Committee members. See section 857-16 of this title.

Section 857-11, Pub. L. 92-125, § 6, Aug. 16, 1971, 85 Stat. 345, provided for assistance to Committee by Federal departments and agencies. See section 857-17 of this title.

Section 857-12, Pub. L. 92-125, § 7, Aug. 16, 1971, 85 Stat. 345; Pub. L. 92-567, Oct. 25, 1972, 86 Stat. 1181; Pub. L. 94-69, § 1, Aug. 5, 1975, 89 Stat. 384, authorized appropriations for operation of the Committee. See section 857-18 of this title.

### § 857-13. National Advisory Committee on Oceans and Atmosphere

There is hereby established a committee of 18 members to be known as the National Advisory Committee on Oceans and Atmosphere (hereinafter in sections 857-13 to 857-18 of this title referred to as the "Committee").

(Pub. L. 95-63, § 2, July 5, 1977, 91 Stat. 265.)

#### PRIOR PROVISIONS

Provisions similar to that contained in this section, which established a National Advisory Committee on Oceans and Atmosphere with a membership of twenty-five, were contained in section 857-6 of this title prior to repeal by section 7(a) of Pub. L. 95-63.

#### SHORT TITLE

For short title of Pub. L. 95-63, see section 1 of Pub. L. 95-63, set out as a note under section 851 of this title.

#### TRANSFER OF PERSONNEL, POSITIONS, RECORDS, AND FUNDS

Section 7(b) of Pub. L. 95-63 provided that: "All personnel, positions, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions specified by the Act of August 16, 1971 [former sections 857-6 to 857-12 of this title] (establishing an advisory committee on oceans and atmosphere), are hereby transferred to the National Advisory Committee on Oceans and Atmosphere established by this Act [sections 857-13 to 857-18 of this title]. The personnel transferred under this subsection shall be so transferred without reduction in classification or compensation except, that after such transfer, such personnel shall be subject to reductions in classification or compensation in the same manner, to the same extent, and according to the same procedure as other employees of the United States classified and compensated according to the General Schedule in title 5, United States Code."

#### TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration

is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-17, 857-18 of this title.

### § 857-14. Membership

#### (a) Appointment and qualifications

The members of the Committee, who may not be full-time officers or employees of the United States, shall be appointed by the President. Members shall be appointed only from among individuals who are eminently qualified by way of knowledge and expertise in the following areas of direct concern to the Committee—

(1) one or more of the disciplines and fields included in marine science and technology, marine industry, marine-related State and local governmental functions, coastal zone management, or other fields directly appropriate for consideration of matters of ocean policy; or

(2) one or more of the disciplines and fields included in atmospheric science, atmospheric-related State and local governmental functions, or other fields directly appropriate for consideration of matters of atmospheric policy.

#### (b) Terms

(1) The term of office of a member of the Committee shall be 3 years; except that of the original appointees, 6 shall be appointed for a term to expire on July 1, 1979, 6 shall be appointed for a term to expire on July 1, 1980, and 6 shall be appointed for a term to expire on July 1, 1981.

(2) Any individual appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. No individual may be reappointed to the Committee for more than one additional 3-year term. A member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office. The terms of office for members first appointed after July 5, 1977, shall begin on July 1, 1977.

#### (c) Chairman

The President shall designate one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

#### (d) Duties

The Committee shall—

(1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; and

(2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration.

(Pub. L. 95-63, § 3, July 5, 1977, 91 Stat. 265; Pub. L. 95-304, § 1(1), June 29, 1978, 92 Stat. 347; Pub. L. 97-87, § 1(1), Dec. 1, 1981, 95 Stat. 1134.)

## PRIOR PROVISIONS

Provisions similar to those contained in this section, which related to membership, terms, and duties of the National Advisory Committee on Oceans and Atmosphere as originally established on Aug. 16, 1971, were contained in section 857-7 of this title prior to repeal by section 7(a) of Pub. L. 95-63.

## AMENDMENTS

1981—Subsec. (b)(2). Pub. L. 97-87 struck out “, or until ninety days after such date, whichever is earlier” after “until his or her successor has taken office”.

1978—Subsec. (b)(1). Pub. L. 95-304 substituted provisions authorizing terms of members to expire on July 1, 1979, July 1, 1980, and July 1, 1981, respectively, for provisions authorizing terms of members to be for 1 year, 2 years, and 3 years, respectively.

## TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-13, 857-17, 857-18 of this title.

**§ 857-15. Reports****(a) In general**

The Committee shall submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and shall submit such other reports as may from time to time be requested by the President or the Congress.

**(b) Review by Secretary**

Each annual report shall also be submitted to the Secretary of Commerce, who shall, within 60 days after receipt thereof, transmit his or her comments and recommendations to the President and to the Congress.

**(c) Annual report submittal**

The annual report required under subsection (a) of this section shall be submitted on or before June 30 of each year, beginning with June 30, 1978.

(Pub. L. 95-63, § 4, July 5, 1977, 91 Stat. 266.)

## PRIOR PROVISIONS

A provision similar to that contained in this section, which required an annual report, beginning June 30, 1972, from the National Advisory Committee on Oceans and Atmosphere as originally established on Aug. 16, 1971, was contained in section 857-9 of this title prior to repeal by section 7(a) of Pub. L. 95-63.

## TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to

the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-13, 857-17, 857-18 of this title.

**§ 857-16. Compensation and travel expenses**

Members of the Committee shall each be entitled to receive compensation not to exceed the daily rate for a GS-18 for each day (including traveltime) during which they are engaged in the actual performance of the duties of the Committee. In addition, while away from their homes or regular places of business in the performance of the duties of the Committee, each member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b)<sup>1</sup> of title 5.

(Pub. L. 95-63, § 5, July 5, 1977, 91 Stat. 266; Pub. L. 97-87, § 1(2), Dec. 1, 1981, 95 Stat. 1134.)

## REFERENCES IN TEXT

Section 5703 of title 5, referred to in text, was amended generally by Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

## PRIOR PROVISIONS

A provision similar to that contained in this section, which authorized compensation and travel expenses for members of the National Advisory Committee on Oceans and Atmosphere as originally established on Aug. 16, 1971, was contained in section 857-10 of this title prior to repeal by section 7(a) of Pub. L. 95-63.

## AMENDMENTS

1981—Pub. L. 97-87 substituted “not to exceed the daily rate for a GS-18” for “of \$100 per day”.

## TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

## REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-13, 857-17, 857-18 of this title.

<sup>1</sup> See References in Text note below.

**§ 857-17. Interagency cooperation and assistance****(a) Liaison**

The head of each department or agency of the Federal Government concerned with marine and atmospheric matters shall designate a senior policy official to participate as observer in the work of the Committee and offer necessary assistance.

**(b) Agency assistance**

The Committee is authorized to request from the head of any department, agency, or independent instrumentality of the Federal Government any information and assistance it deems necessary to carry out the functions assigned under sections 857-13 to 857-18 of this title. The head of each such department, agency, or instrumentality is authorized to cooperate with the Committee, and, to the extent permitted by law, to furnish such information and assistance to the Committee upon request made by the Chairman, without reimbursement for such services and assistance.

**(c) Administrative assistance**

The Secretary of Commerce shall make available to the Committee such staff, information, personnel, and administrative services and assistance as may reasonably be required to carry out the provisions of sections 857-13 to 857-18 of this title.

(Pub. L. 95-63, § 6, July 5, 1977, 91 Stat. 266.)

## PRIOR PROVISIONS

Provisions similar to those contained in this section, which required the designation of senior policy officials as observers, directed the Secretary of Commerce to provide administrative assistance, and authorized requests for assistance from Federal agencies by the Federal Advisory Committee on Oceans and Atmosphere as originally established on Aug. 16, 1971, were contained in sections 857-8 and 857-11 of this title prior to repeal by section 7(a) of Pub. L. 95-63.

## TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-13, 857-18 of this title.

**§ 857-18. Authorization of appropriations**

There are authorized to be appropriated for purposes of carrying out sections 857-13 to 857-18 of this title not to exceed \$520,000 for the fiscal year ending September 30, 1978, \$572,000 for the fiscal year ending September 30, 1979, \$565,000 for the fiscal year ending September 30, 1980, \$600,000 for the fiscal year ending September 30, 1981, and \$555,000 for the fiscal year ending September 30, 1982. Such sums as may be appropriated under this section shall remain available until expended.

(Pub. L. 95-63, § 8, July 5, 1977, 91 Stat. 267; Pub. L. 95-304, § 1(2), June 29, 1978, 92 Stat. 347; Pub. L. 96-26, June 21, 1979, 93 Stat. 74; Pub. L. 97-87, § 1(3), Dec. 1, 1981, 95 Stat. 1134.)

## PRIOR PROVISIONS

Provisions similar to those contained in this section, which authorized appropriations, beginning with an authorization of \$200,000 for the fiscal year ending June 30, 1972, for the operation of the National Advisory Committee on Oceans and Atmosphere as originally established on Aug. 16, 1971, were contained in section 857-12 of this title prior to repeal by section 7(a) of Pub. L. 95-63.

## AMENDMENTS

1981—Pub. L. 97-87 inserted provisions authorizing appropriations of not to exceed \$555,000 for fiscal year ending Sept. 30, 1982, and provided that such sums as might be appropriated under authority of this section remain available until expended.

1979—Pub. L. 96-26 substituted provisions authorizing appropriations of \$565,000 for fiscal year ending Sept. 30, 1980, and \$600,000 for fiscal year ending Sept. 30, 1981, for provisions directing that sums appropriated under this section remain available until expended.

1978—Pub. L. 95-304 inserted provisions authorizing appropriations for fiscal year ending Sept. 30, 1979.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 857-13, 857-17 of this title.

**§ 857a. Rights, benefits, privileges, and immunities; exercise of authority by Secretary of Commerce or designee**

(a) The rules of law that apply to the Armed Forces under the following provisions of title 10, including changes in those rules made after August 10, 1956, apply also to the commissioned officers of the National Oceanic and Atmospheric Administration:

(1) Section 1036, Escorts for dependents of members: transportation and travel allowances.

(2) Chapter 61, Retirement or Separation for Physical Disability.

(3) Chapter 69, Retired Grade, except sections 1370, 1374,<sup>1</sup> 1375, and 1376(a).

(4) Chapter 71, Computation of Retired Pay, except formula No. 3 of section 1401.

(5) Chapter 73, Retired Serviceman's Family Protection Plan; Survivor Benefit Plan.

(6) Chapter 75, Death Benefits.

(7) Section 2771, Final settlement of accounts: deceased members.

(8) Sections 2731, 2732, and 2735, property loss incident to service.

(9) Such other provisions of subtitle A as may be adopted for applicability to the commissioned officers of the National Oceanic and Atmospheric Administration by any other provision of law.

(10) Chapter 40, Leave.

(11) Section 2634, Motor vehicles: for members on permanent change of station.

(12) Section 1035, Deposits of Savings.

(13) Section 716, Commissioned officers: transfers among the Armed Forces, the National Oceanic and Atmospheric Administration, and the Public Health Service.

<sup>1</sup> See References in Text note below.

(14) Section 7572(b), Quarters: accommodations in place of for members on sea duty.

(b) The authority vested by title 10 in the "military department", "the Secretary concerned", or "the Secretary of Defense" with respect to the provisions of law referred to in subsection (a) of this section shall be exercised, with respect to the National Oceanic and Atmospheric Administration by the Secretary of Commerce or his designee.

(Aug. 10, 1956, ch. 1041, § 3, 70A Stat. 619; Sept. 2, 1958, Pub. L. 85-861, § 3, 72 Stat. 1546; Aug. 14, 1959, Pub. L. 86-160, § 2, 73 Stat. 358; Sept. 14, 1961, Pub. L. 87-233, § 4, 75 Stat. 507; Sept. 7, 1962, Pub. L. 87-649, § 9(a), 76 Stat. 495; Oct. 2, 1963, Pub. L. 88-132, § 5(k), 77 Stat. 214; Aug. 14, 1964, Pub. L. 88-431, § 1(c)(1), 78 Stat. 439; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; Aug. 14, 1966, Pub. L. 89-538, § 3(a), 80 Stat. 348; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Sept. 21, 1972, Pub. L. 92-425, § 5, 86 Stat. 713; Mar. 25, 1980, Pub. L. 96-215, § 1, 94 Stat. 123; Sept. 24, 1980, Pub. L. 96-357, § 4, 94 Stat. 1182; Dec. 12, 1980, Pub. L. 96-513, title V, § 507(f)(1), 94 Stat. 2920; Sept. 24, 1983, Pub. L. 98-94, title X, § 1007(d), 97 Stat. 662.)

#### REFERENCES IN TEXT

Section 1374 of title 10, referred to in subsec. (a)(3), was repealed by Pub. L. 103-337, div. A, title XVI, § 1662(k)(2), Oct. 5, 1994, 108 Stat. 3006. See sections 12771 to 12773 of Title 10, Armed Forces.

Section 2732 of title 10, referred to in subsec. (a)(8), was repealed by Pub. L. 88-558, § 5(3), Aug. 31, 1964, 78 Stat. 768. See sections 3701(2) and (3) and 3721 of Title 31, Money and Finance.

#### CODIFICATION

Section was formerly classified to section 316 of Title 37 prior to the general revision and enactment of Title 37, Pay and Allowances of the Uniformed Services by Pub. L. 87-649, § 1, Sept. 7, 1962, 76 Stat. 451.

#### AMENDMENTS

1983—Subsec. (a)(13). Pub. L. 98-94 substituted "transfers among the Armed Forces, the National Oceanic and Atmospheric Administration, and the Public Health Service" for "transfers between armed forces and to and from National Oceanic and Atmospheric Administration".

1980—Subsec. (a)(3). Pub. L. 96-513 inserted reference to section 1370.

Subsec. (a)(13). Pub. L. 96-215 added cl. (13).

Subsec. (a)(14). Pub. L. 96-357 added cl. (14).

1972—Subsec. (a)(5). Pub. L. 92-425 substituted "Retired Serviceman's Family Protection Plan; Survivor Benefit Plan" for "Annuities Based on Retired or Retainer Pay".

1966—Subsec. (a)(12). Pub. L. 89-538 added cl. (12).

1964—Subsec. (a)(11). Pub. L. 88-431 added cl. (11).

1963—Subsec. (b). Pub. L. 88-132 inserted reference to Secretary of Defense.

1962—Subsec. (a)(10). Pub. L. 87-649 added cl. (10).

1961—Subsec. (a)(8), (9). Pub. L. 87-233 added cl. (8) and redesignated former cl. (8) as (9).

1959—Subsec. (a)(1) to (8). Pub. L. 86-160 added cl. (1) and renumbered former cls. (1) to (7) as (2) to (8).

1958—Subsec. (a)(2), (5) to (7). Pub. L. 85-861, inserted reference to section 1374 in cl. (2), struck out "Care of the Dead" after "Benefits" in cl. (5), added cl. (6), and renumbered former cl. (6) as (7).

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as a note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

#### TRANSFER OF FUNCTIONS

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and commissioned officers of Survey transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director of Survey. Subsequently, Environmental Science Services Administration abolished, National Oceanic and Atmospheric Administration established, and Commissioned Officer Corps of ESSA redesignated Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see note set out under section 851 of this title.

#### DESIGNATION OF BENEFICIARY MADE BEFORE JANUARY 1, 1956

Designation of beneficiary made before Jan. 1, 1956, considered as the designation of a beneficiary for the purposes of section 3 of Pub. L. 85-861, which amended this section, see note set out under section 2771 of Title 10, Armed Forces.

#### RULES AND REGULATIONS: SAVINGS DEPOSIT BENEFITS

Regulations prescribed by the Secretary of Commerce concerning savings deposit benefits for Coast and Geodetic Survey personnel to be prescribed jointly with regulations prescribed by the Secretaries concerned under section 1035 of Title 10, Armed Forces, see section 3(c) of Pub. L. 89-538, set out as a note under section 1035 of Title 10, Armed Forces.

#### BACK PAYMENTS: VALIDATION; APPLICATION; LIMITATIONS; ACCOUNTABILITY OF DISBURSING OFFICERS; REGULATIONS

Transportation and travel allowances to escorts for dependents of members, see sections 4 to 7 of Pub. L. 86-160, set out as a note under section 1036 of Title 10, Armed Forces.

### § 858. Rules and regulations when cooperating with military departments

The Secretary of Defense and the Secretary of Commerce shall jointly prescribe regulations governing the duties to be performed by the National Oceanic and Atmospheric Administration in time of war, and for the cooperation of that service with the military departments in time of peace in preparation for its duties in war, which regulations shall not be effective unless approved by each of those Secretaries, and included therein may be rules and regulations for making reports and communications between a military department and the National Oceanic and Atmospheric Administration.

(May 22, 1917, ch. 20, § 16, 40 Stat. 88; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819,

79 Stat. 1318; Oct. 14, 1966, Pub. L. 89-657, §1(2), 80 Stat. 907; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

#### CODIFICATION

Section is part of section 16 of act May 22, 1917. Section 16 is also classified to sections 854, 855, 856 and 857 of this title.

#### AMENDMENTS

1966—Pub. L. 89-657 substituted the Secretary of Defense for the Secretary of the Army and the Secretary of the Navy as the Secretary designated to prescribe regulations jointly with the Secretary of Commerce, the Environmental Science Services Administration for the Coast and Geodetic Survey as the agency involved, and the military departments for the Department of the Army and the Navy Department as the departments with which the Environmental Science Services Administration shall cooperate.

#### CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

#### TRANSFER OF FUNCTIONS

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and commissioned officers of Survey transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director of Survey. Subsequently, Environmental Science Services Administration abolished, National Oceanic and Atmospheric Administration established, and Commissioned Officer Corps of ESSA redesignated Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see note set out under section 851 of this title.

#### TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, §3, 61 Stat. 451, provided that in the interpretation of sections 855, 856, 857, and 858 of this title, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by the Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 854a-1 of this title.

#### **§ 859. Repealed. June 16, 1942, ch. 413, § 19, 56 Stat. 369, eff. June 1, 1942**

Section, act June 10, 1922, ch. 212, 42 Stat. 625-633, related to pay and allowances of commissioned officers.

#### **§ 860. Repealed. Pub. L. 87-649, § 14b, Sept. 7, 1962, 76 Stat. 499**

Section, act May 18, 1920, ch. 190, §11 (words before the first semicolon), 41 Stat. 603, made pay and allowances of naval officers applicable to Coast and Geodetic Survey generally.

#### **§ 861. Omitted**

##### CODIFICATION

Section, acts Feb. 27, 1925, ch. 364, title III, 43 Stat. 1046; Apr. 29, 1926, ch. 195, title III, 44 Stat. 362, related to expenses of officers of the Coast and Geodetic Survey when traveling on Government owned vessels. See sections 404 to 411 of Title 37, Pay and Allowances of the Uniformed Services.

#### **§ 861a. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641**

Section, act May 18, 1920, ch. 190, §12, 41 Stat. 604, related to transportation for families of officers and enlisted men on permanent change of station.

#### **§§ 861b, 861c. Omitted**

##### CODIFICATION

Section 861b, act Feb. 21, 1929, ch. 288, 45 Stat. 1254, defined the terms "child" and "children" as formerly used in section 861a of this title, and has been omitted in view of the repeal of section 861a.

Section 861c, act June 24, 1935, ch. 291, §3, 49 Stat. 421, defined the phrase "permanent change in station" as formerly used in section 861a of this title, and has been omitted in view of the repeal of section 861a.

#### **§ 862. Repealed. Pub. L. 87-649, § 14b, Sept. 7, 1962, 76 Stat. 498**

Section, acts Mar. 4, 1907, ch. 2918, §1, 34 Stat. 1322; Mar. 4, 1913, ch. 141, §1, 37 Stat. 736; June 21, 1955, ch. 172, §1, 69 Stat. 169; Sept. 26, 1961, Pub. L. 87-304, §9(b), 75 Stat. 665, authorized commissioned officers of the Coast and Geodetic Survey to make assignments or allotments of their pay. See section 706 of Title 37, Pay and Allowances of the Uniformed Services.

#### **§ 862a. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641**

Section, acts Mar. 2, 1923, ch. 178, title I, 42 Stat. 1385; Aug. 4, 1949, ch. 393, §11, 63 Stat. 559, prohibited the issuance of heat or light in kind to any person in the Coast and Geodetic Survey while such person is receiving an allowance for rental of quarters.

#### **§ 863. Repealed. June 21, 1955, ch. 172, § 5(4), 69 Stat. 170**

Section, acts Mar. 4, 1909, ch. 299, §1, 35 Stat. 974; Mar. 4, 1913, ch. 141, §1, 37 Stat. 736, related to leaves of absence of officers of the Coast and Geodetic Survey on duty in the Philippine Islands.

#### **§ 864. Retirement of officers generally**

All laws relating to the retirement of commissioned officers of the Navy shall, after May 18, 1920, apply to commissioned officers of the National Oceanic and Atmospheric Administration. (May 18, 1920, ch. 190, §11, 41 Stat. 603; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

##### CODIFICATION

Section is based on section 11 (words between the first semicolon and the proviso) of act May 18, 1920. Section 11 (words before the first semicolon) of the 1920 act, which was classified to section 860 of this title, was repealed by Pub. L. 87-649, §14(b), Sept. 7, 1962, 76 Stat. 499. Section 11 (proviso) of the 1920 act, which was classified to section 683 of former Title 10, Army; section 864a of this title; section 879b of former Title 34, Navy; section 4a of former Title 37, Pay and Allowances; and

section 62 of Title 42, The Public Health and Welfare; was repealed by act Aug. 10, 1956 ch. 1041, § 53, 70A Stat. 662.

#### TRANSFER OF FUNCTIONS

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and commissioned officers of Survey transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director of Survey. Subsequently, Environmental Science Services Administration abolished, National Oceanic and Atmospheric Administration established, and Commissioned Officer Corps of ESSA redesignated Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see note set out under section 851 of this title.

#### CROSS REFERENCES

Navy officers—

Involuntary retirement generally, see sections 627 et seq. and 6383 of Title 10, Armed Forces.

Voluntary retirement generally, see section 6321 et seq. of Title 10.

#### § 864a. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, act May 18, 1920, ch. 190, §§ 11 (proviso), 14, 41 Stat. 604, related to service credits in computing longevity pay of officers of the Coast and Geodetic Survey.

#### §§ 864b, 864c. Repealed. June 3, 1948, ch. 390, § 22(a), formerly § 21(a), 62 Stat. 300; renumbered § 22(a), Sept. 14, 1961, Pub. L. 87-233, § 1(f), 75 Stat. 506

Section 864b, act Jan. 19, 1942, ch. 6, § 5, 56 Stat. 7, related to retirement of officers. See sections 853k, 853l of this title. See, also, sections 1401 et seq., 6321 et seq., and 6371 et seq. of Title 10, Armed Forces.

Section 864c, act Jan. 19, 1942, ch. 6, § 7, 56 Stat. 8, related to pay of officers retired upon recommendation of Personnel Board. See sections 853o to 853q of this title.

#### § 864d. Repealed. Oct. 12, 1949, ch. 681, title V, § 531(b)(31), 63 Stat. 839, eff. Oct. 1, 1949

Section, acts Jan. 19, 1942, ch. 6, § 7, 56 Stat. 8; June 3, 1948, ch. 390, § 22(b), formerly § 21(b), 62 Stat. 300; renumbered § 22(b), Sept. 14, 1961, Pub. L. 87-233, § 1(f), 75 Stat. 506, related to rank or pay of officers retired for duty incurred disability. See sections 1201 et seq., 1371 et seq., and 1401 et seq. of Title 10, Armed Forces.

#### § 864e. Repealed. Pub. L. 86-465, § 1, May 13, 1960, 74 Stat. 130

Section, acts June 6, 1942, ch. 383, 56 Stat. 328; Aug. 4, 1949, ch. 393, § 15, 63 Stat. 560; Oct. 12, 1949, ch. 681, title V, § 522(b), 63 Stat. 836, provided that certain commissioned officers of the Coast and Geodetic Survey who have been specially commended for performance of duty in actual combat prior to Dec. 31, 1946, shall, upon retirement, be placed upon the retired list one grade higher than the grade in which they were serving at the time of retirement.

#### EFFECTIVE DATE OF REPEAL

Section 2 of Pub. L. 86-465 provided that: "This Act [repealing this section] becomes effective on November 1, 1959."

#### § 865. Omitted

#### CODIFICATION

Section, acts May 28, 1924, ch. 203, 43 Stat. 194; Feb. 11, 1925, ch. 209, 43 Stat. 872; May 21, 1926, ch. 355, 44 Stat. 604, related to computation of length of service of officers and expired with the appropriation acts of which it was a part.

#### § 866. Repealed. Aug. 6, 1947, ch. 504, § 10(1), 61 Stat. 788

Section, act Jan. 31, 1925, ch. 121, 43 Stat. 802, related to seismological investigations. See section 883a of this title.

#### §§ 867, 868. Repealed. Oct. 31, 1951, ch. 654, § 1(39), (60), 65 Stat. 702, 703

Section 867, act June 5, 1920, ch. 235, § 1, 41 Stat. 930, related to transfer of instruments to institutions. See sections 483 and 484 of Title 40, Public Buildings, Property, and Works.

Section 868, act July 1, 1918, ch. 113, § 1, 40 Stat. 688, related to purchase of supplies or procurement of services in the field. See section 5 of Title 41, Public Contracts.

#### § 868a. Omitted

#### CODIFICATION

Section, act Jan. 19, 1942, ch. 6, § 10, 56 Stat. 8; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; Oct. 14, 1966, Pub. L. 89-657, § 2, 80 Stat. 907; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, related to the purchase of commissary and quartermaster supplies by personnel from the National Oceanic and Atmospheric Administration, and has been superseded by Pub. L. 91-621, § 4, Dec. 31, 1970, 84 Stat. 1863, set out as section 857-4 of this title.

#### § 869. Repealed. July 1, 1944, ch. 373, title XIII, § 1313 58 Stat. 714

Section, act Apr. 26, 1939, ch. 92, § 2, 53 Stat. 620, as affected by 1939 Reorg. Plan No. 1, §§ 201, 205, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424, provided for medical, dental, etc., treatment of Coast and Geodetic Survey's personnel and their families. See section 253 of Title 42, The Public Health and Welfare.

#### RENUMBERING OF REPEALING ACT

Section 611 of act July 1, 1944, which repealed this section, was renumbered § 711 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, § 713 by act Feb. 28, 1948, ch. 83, § 9(b), 62 Stat. 47, § 813 by act July 30, 1956, ch. 779, § 3(b), 70 Stat. 720, § 913 by Pub. L. 88-581, § 4(b), Sept. 4, 1964, 78 Stat. 919, § 1013 by Pub. L. 89-239, § 3(b), Oct. 5, 1965, 79 Stat. 931, § 1113 by Pub. L. 91-572, § 6(b), Dec. 24, 1970, 84 Stat. 1506, § 1213 by Pub. L. 92-294, § 3(b), May 16, 1972, 86 Stat. 137; § 1313 by Pub. L. 93-154, § 2(b)(2), Nov. 16, 1973, 87 Stat. 604, and was repealed by Pub. L. 93-222, § 7(b), Dec. 29, 1973, 87 Stat. 936.

#### § 870. Repealed. Aug. 1, 1956, ch. 837, title V, § 502(7), 70 Stat. 886.

Section, acts Jan. 19, 1942, ch. 6, § 9, 56 Stat. 8; Mar. 29, 1944, ch. 141, § 4, 58 Stat. 130; July 15, 1954, ch. 507, § 15, 68 Stat. 481, provided for payment of death gratuity to survivors of commissioned officers of Coast and Geodetic Survey.

#### EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1957, see section 603(a) of act Aug. 1, 1956.

#### § 871. Repealed. Dec. 28, 1945, ch. 597, § 4, 59 Stat. 662

Section, act Oct. 27, 1943, ch. 287, § 6, 57 Stat. 583, provided for reimbursement for property lost or destroyed in service while serving with the Navy.

**§ 872. Omitted**

## CODIFICATION

Section, Pub. L. 86-451, title I, § 301, May 13, 1960, 74 Stat. 94, which prescribed the rate of extra compensation for recorders, instrument observers and other Federal employees while making oceanographic observations or tending seismographs, was from an appropriation act. See section 873 of this title, which authorizes Secretary of Commerce to establish rates of compensation for such personnel.

**§ 873. Extra compensation for instrument observers, recorders and other Federal employees for oceanographic, seismographic and magnetic observations**

The Secretary of Commerce is authorized to pay extra compensation to members of crews of vessels when assigned duties as instrument observer or recorder, and to employees of other Federal agencies while observing tides or currents, or tending seismographs or magnetographs, at such rates as may be specified from time to time by him and without regard to section 5533 of title 5.

(July 22, 1947, ch. 286, § 2, 61 Stat. 400; Mar. 28, 1960, Pub. L. 86-397, § 1, 74 Stat. 11; Aug. 19, 1964, Pub. L. 88-448, title IV, § 401(l), 78 Stat. 491.)

## CODIFICATION

“Section 5533 of title 5” substituted in text for “section 301 of the Dual Compensation Act [5 U.S.C. 3105]” on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

## AMENDMENTS

1964—Pub. L. 88-448 inserted “and without regard to section 301 of the Dual Compensation Act”.

1960—Pub. L. 86-397 substituted “Secretary of Commerce” for “Coast and Geodetic Survey” and “instrument observer or recorder” for “bombers or fathometer readers,” inserted reference to employees tending magnetographs, and authorized Secretary to establish rates of compensation.

## EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-448 effective on first day of first month which begins later than the ninetieth day following Aug. 19, 1964, see section 403 of Pub. L. 88-448.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5533.

**§ 874. Transportation of deceased officers' effects; reimbursement for supplies furnished distressed and shipwrecked persons**

The Secretary of Commerce is authorized to provide, from appropriations now or hereafter made available to the National Oceanic and Atmospheric Administration, for—

(a) Transportation (including packing, unpacking, crating, and uncrating) of personal and household effects of commissioned officers who die on active duty to the official residence of record for such officers, or, upon application by their dependents, to such other locations as may be determined by the Secretary of Commerce or by such person as he may designate.

(b) Reimbursement, under regulations prescribed by the Secretary, of commissioned officers for food, clothing, medicines, and other supplies furnished by them for the temporary relief

of distressed persons in remote localities and to shipwrecked persons temporarily provided for by them.

(July 22, 1947, ch. 286, § 1, 61 Stat. 400; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

## TRANSFER OF FUNCTIONS

Office of Director of Coast and Geodetic Survey abolished, and Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director. Subsequently, Environmental Science Services Administration abolished and National Oceanic and Atmospheric Administration established by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. By Department Organization Order 25-5A, Secretary delegated to NOAA his functions under this chapter of the Code. For further details, see note set out under section 851 of this title.

## CROSS REFERENCES

Transportation of officers' effects on change of station, see section 404 et seq. of Title 37, Pay and Allowances of the Uniformed Services.

**§ 875. Powers of officers as notaries**

In places where the National Oceanic and Atmospheric Administration is serving which are not within the jurisdiction of any one of the States of the continental United States, excluding Alaska, commanding officers of National Oceanic and Atmospheric Administration vessels, and such other officers of the National Oceanic and Atmospheric Administration as the Secretary of Commerce may designate, may exercise the general powers of the notary public in the administration of oaths for the execution, acknowledgment, and attestation of instruments and papers, and the performance of all other notarial acts. The powers conferred shall be limited to acts performed in behalf of the personnel of the National Oceanic and Atmospheric Administration or in connection with the proper execution of the functions of that agency.

(Aug. 3, 1956, ch. 932, § 1, 70 Stat. 988; July 12, 1960, Pub. L. 86-624, § 24, 74 Stat. 418; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

## AMENDMENTS

1960—Pub. L. 86-624 substituted “the States of the continental United States, excluding Alaska” for “the several States”.

## TRANSFER OF FUNCTIONS

Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, and commissioned officers of Survey transferred to ESSA, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director of Survey.

Subsequently, Environmental Science Services Administration abolished, National Oceanic and Atmospheric Administration established, and Commissioned Officer Corps of ESSA redesignated Commissioned Officer Corps of NOAA by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. For further details, see note set out under section 851 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 876 of this title.

#### § 876. Fees for notarial acts; prima facie evidence of authority

No fee of any kind shall be paid to any officer for the performance of any notarial act authorized by section 875 of this title. The signature without seal together with indication of grade of any officer performing any notarial act shall be prima facie evidence of his authority.

(Aug. 3, 1956, ch. 932, § 2, 70 Stat. 988.)

#### § 877. Appropriations; advances from

Advances of money from available appropriations may be made to the National Ocean Survey and by authority of the Director thereof to chiefs of parties and accounts arising under such advances shall be rendered through and by the disbursing officer of the National Ocean Survey to the General Accounting Office as under advances made to chiefs of parties prior to July 1, 1918.

(July 1, 1918, ch. 113, § 1, 40 Stat. 688; June 5, 1920, ch. 235, § 1, 41 Stat. 929; June 10, 1921, ch. 18, title III, § 304, 42 Stat. 24; June 6, 1972, Pub. L. 92-310, title II, § 231(z), 86 Stat. 212.)

#### CODIFICATION

Section was a provision of the Sundry Civil Appropriation Act of July 1, 1918.

Section was formerly classified to section 550 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 877.

#### AMENDMENTS

1972—Pub. L. 92-310 struck out provisions which required chiefs of parties to give bonds.

#### TRANSFER OF FUNCTIONS

Coast and Geodetic Survey consolidated with National Weather Bureau to form Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Environmental Science Services Administration abolished and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of Acting Associate Administrator of National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. For further details, see note set out under section 851 of this title.

“General Accounting Office” substituted in text for “Treasury Department” pursuant to act June 10, 1921, which transferred all powers and duties of Comptroller, six auditors, and certain other employees of Treasury to General Accounting Office. See section 701 et seq. of Title 31, Money and Finance.

#### § 878. Appropriations; purchases from

The Secretary of Commerce is authorized to purchase, from the appropriation for the Na-

tional Ocean Survey, provisions, clothing, and small stores for the enlisted men, and food supplies for field parties working in remote localities, such provisions, clothing, small stores, and food supplies to be sold to the employees of said survey and the appropriation reimbursed.

(Mar. 3, 1901, ch. 853, § 1, 31 Stat. 1144; Feb. 14, 1903, ch. 552, § 4, 32 Stat. 826.)

#### CODIFICATION

Section was a provision of the Sundry Civil Appropriation Act of Mar. 3, 1901.

Upon incorporation into the Code, the words “Secretary of Commerce” were substituted for “Secretary of the Treasury” to conform to act Feb. 14, 1903.

Section was formerly classified to section 661 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 877.

#### TRANSFER OF FUNCTIONS

Coast and Geodetic Survey consolidated with National Weather Bureau to form Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Environmental Science Services Administration abolished and its personnel, property, records, etc., transferred to National Oceanic and Atmospheric Administration by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090. By order of Acting Associate Administrator of National Oceanic and Atmospheric Administration, 35 F.R. 19249, Dec. 19, 1970, Coast and Geodetic Survey redesignated National Ocean Survey. For further details, see note set out under section 851 of this title.

#### SUBCHAPTER II—SURVEYS

#### §§ 881 to 883. Repealed. Aug. 6, 1947, ch. 504, § 10(2)–(5), 61 Stat. 788

Section 881, R.S. § 4681, related to authority of the President to order surveys of coasts of the United States. See section 883a of this title.

Section 882, R.S. § 4682, related to additional authority to order surveys beyond twenty-league limit. See section 883a of this title.

Section 883, R.S. §§ 4683, 4684, related to mode of conducting surveys generally. See sections 883a and 883b of this title.

#### § 883a. Surveys and other activities

To provide charts and related information for the safe navigation of marine and air commerce, and to provide basic data for engineering and scientific purposes and for other commercial and industrial needs, the Secretary of Commerce, is authorized to conduct the following activities:

- (1) Hydrographic and topographic surveys;
- (2) Tide and current observations;
- (3) Geodetic-control surveys;
- (4) Field surveys for aeronautical charts;
- (5) Geomagnetic, seismological, gravity, and related geophysical measurements and investigations, and observations for the determination of variation in latitude and longitude.

(Aug. 6, 1947, ch. 504, § 1, 61 Stat. 787; Apr. 5, 1960, Pub. L. 86-409, 74 Stat. 16; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318.)

#### AMENDMENTS

1960—Pub. L. 86-409 struck out provisions which restricted the Coast and Geodetic Survey in the conduct of its specified activities to the United States, its Ter-

ritories and possessions, and which restricted hydrographic and topographic surveys to surveys of coastal water and land areas (including offlying islands, banks, shoals, and other offshore areas), and to surveys of lakes, rivers, reservoirs, and other inland waters not otherwise provided for by statute.

#### TRANSFER OF FUNCTIONS

Office of Director of Coast and Geodetic Survey abolished and Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director. For further details, see note set out under section 851 of this title.

#### GREAT LAKES MAPPING

Pub. L. 100-220, title III, subtitle B, Dec. 29, 1987, 101 Stat. 1475, as amended by Pub. L. 100-629, §3, Nov. 7, 1988, 102 Stat. 3286, provided that:

##### “SEC. 3201. SHORT TITLE.

“This subtitle may be cited as the ‘Great Lakes Shoreline Mapping Act of 1987’.

##### “SEC. 3202. GREAT LAKES SHORELINE MAPPING PLAN.

“(a) PREPARATION OF PLAN.—Not later than nine months after the date of the enactment of this subtitle [Dec. 29, 1987], the Director, in consultation with the Director of the United States Geological Survey, shall submit to the Congress a plan for preparing maps of the shoreline of the Great Lakes under section 3203.

“(b) CONTENT OF PLAN.—A plan prepared under paragraph (1) shall include—

“(1) a work proposal and a division of responsibilities between the National Oceanic and Atmospheric Administration and the United States Geological Survey;

“(2) a time schedule for completion of maps;

“(3) recommendation of funding needed for preparing the maps; and

“(4) an area mapping schedule, with first priority given to shoreline areas subject to a high risk of erosion or flooding.

##### “SEC. 3203. PREPARATION OF GREAT LAKES SHORELINE MAPS.

“(a) IN GENERAL.—The [sic] following completion of a shoreline mapping plan under section 3202 and subject to authorization and appropriation of funds, the Director, in consultation with the Director of the United States Geological Survey, shall prepare maps of the shoreline areas of the Great Lakes.

“(b) CONTENT OF MAPS.—Maps prepared under this section—

“(1) shall include—

“(A) bathymetry of the nearshore area, to the extent that this area will affect coastal erosion and flooding;

“(B) topography of the adjacent shoreline, to the extent that this area will directly affect or be affected by coastal erosion and flooding;

“(C) the geological conditions of the nearshore area and shoreline to the extent that these areas will directly affect or be affected by coastal erosion and flooding;

“(D) information on the recent geological past of the nearshore area and shoreline areas described in paragraph (3); and

“(E) appropriate information for use in predicting and preventing damage caused by erosion and flooding in the Great Lakes;

“(2) shall be of appropriate scale and detail and take into account the greater informational needs of areas subject to a high risk of erosion or flooding; and

“(3) to the maximum extent practicable, shall be consistent with similar shoreline maps prepared by, or for the use of, the Government of Canada.

“(c) CONSULTATION.—In preparing maps under this section, the Director shall consult with, and take into consideration, the informational needs of—

“(1) the Army Corps of Engineers;

“(2) the Federal Emergency Management Agency;

“(3) other appropriate Federal agencies;

“(4) the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;

“(5) appropriate local government units; and

“(6) the general public.

“(d) AVAILABILITY OF MAPS.—The Director shall make maps prepared under this section available to—

“(1) Federal agencies;

“(2) State governments;

“(3) local government units;

“(4) the Government of Canada; and

“(5) the general public.

“(e) RECOVERY OF COSTS.—The costs of reproducing and distributing maps prepared under this section may be recovered under section 9701 of title 31, United States Code, or another law.

##### “SEC. 3204. CONTRACT AUTHORITY.

“The Director may, subject to appropriations, enter into contracts and agreements on a reimbursable or cost-sharing basis with other Federal agencies, State governments, local governments, and private entities, to carry out this subtitle.

##### “SEC. 3205. DEFINITIONS.

“For purposes of this subtitle—

“(1) The term ‘Director’ means the Director of Charting and Geodetic Services of the National Ocean Service, within the National Oceanic and Atmospheric Administration.

“(2) The term ‘Great Lakes’ means Lake Erie, Lake Huron, Lake Michigan, Lake Ontario, Lake St. Clair, Lake Superior, the Saint Mary’s River, the Saint Clair River, the Detroit River, the Niagara River, the Saint Lawrence River to the Canadian border, to the extent such lakes and rivers are subject to the jurisdiction of the United States.

“(3) The term ‘high risk of erosion’ means subject to erosion at a rate greater than 1 foot per year.

##### “SEC. 3206. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out section 3202 not more than \$100,000 for fiscal year 1989. Amounts appropriated pursuant to this section shall remain available until expended.”

### § 883b. Dissemination of data; further activities

In order that full public benefit may be derived from the operations of the National Ocean Survey by the dissemination of data resulting from the activities herein authorized and of related data from other sources, the Secretary of Commerce is authorized to conduct the following activities:

(1) Analysis and prediction of tide and current data;

(2) Processing and publication of data, information, compilations, and reports;

(3) Compilation and printing of aeronautical charts of the United States, its Territories, and possessions; and, in addition, the compilation and printing of such aeronautical charts covering international airways as are required primarily by United States Civil aviation;

(4) Compilation and printing of nautical charts of the United States, its Territories, and possessions;

(5) Distribution of aeronautical charts and related navigational publications required by United States civil aviation;

(6) Distribution of nautical charts and related navigational publications for the United States, its Territories, and possessions.

(Aug. 6, 1947, ch. 504, § 2, 61 Stat. 787; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

#### TRANSFER OF FUNCTIONS

Office of Director of Coast and Geodetic Survey abolished and Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director. Subsequently, Environmental Science Services Administration abolished and National Oceanic and Atmospheric Administration established by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. By Department Organization Order 25-5A, Secretary delegated to NOAA his functions under this chapter of the Code. By order of Acting Associate Administrator of NOAA, organizational name of Coast and Geodetic Survey changed to National Ocean Survey. For further details, see note set out under section 851 of this title.

#### § 883c. Geomagnetic data; collection, correlation, and dissemination

To provide for the orderly collection of geomagnetic data from domestic and foreign sources, and to assure that such data shall be readily available to Government and private agencies and individuals, the National Ocean Survey is designated as the central depository of the United States Government for geomagnetic data, and the Secretary of Commerce is authorized to collect, correlate, and disseminate such data.

(Aug. 6, 1947, ch. 504, § 3, 61 Stat. 787; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

#### TRANSFER OF FUNCTIONS

Office of Director of Coast and Geodetic Survey abolished and Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director. Subsequently, Environmental Science Services Administration abolished and National Oceanic and Atmospheric Administration established by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. By Department Organization Order 25-5A, Secretary delegated to NOAA his functions under this chapter of the Code. By order of Acting Associate Administrator of NOAA, organizational name of Coast and Geodetic Survey changed to National Ocean Survey. For further details, see note set out under section 851 of this title.

#### § 883d. Improvement of methods, instruments, and equipments; investigations and research

To improve the efficiency of the National Ocean Survey and to increase engineering and

scientific knowledge, the Secretary of Commerce is authorized to conduct developmental work for the improvement of surveying and cartographic methods, instruments, and equipments; and to conduct investigations and research in geophysical sciences (including geodesy, oceanography, seismology, and geomagnetism).

(Aug. 6, 1947, ch. 504, § 4, 61 Stat. 788; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

#### TRANSFER OF FUNCTIONS

Office of Director of Coast and Geodetic Survey abolished and Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director. Subsequently, Environmental Science Services Administration abolished and National Oceanic and Atmospheric Administration established by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. By Department Organization Order 25-5A, Secretary delegated to NOAA his functions under this chapter of the Code. By order of Acting Associate Administrator of NOAA, organizational name of Coast and Geodetic Survey changed to National Ocean Survey. For further details, see note set out under section 851 of this title.

#### § 883e. Cooperative agreements for surveys and investigations; contribution of costs incurred by National Oceanic and Atmospheric Administration

(1) The Secretary of Commerce is authorized to enter into cooperative agreements with, and to receive and expend funds made available by, any State or subdivision thereof, any Federal agency, or any public or private organization, or individual, for surveys or investigations authorized herein, or for performing related surveying and mapping activities, including special-purpose maps, and for the preparation and publication of the results thereof.

(2) The Secretary of Commerce is authorized to establish the terms of any cooperative agreement entered into under this section, including the amount of funds to be received, and may contribute that portion of the costs incurred by the National Oceanic and Atmospheric Administration, including shiptime and personnel expenses, which the Secretary determines represents the amount of benefits derived by the Administration from the cooperative agreement.

(Aug. 6, 1947, ch. 504, § 5, 61 Stat. 788; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; Apr. 7, 1986, Pub. L. 99-272, title VI, § 6085, 100 Stat. 138.)

#### AMENDMENTS

1986—Pub. L. 99-272 designated existing provisions as par. (1), inserted “any Federal agency,” after “or subdivision thereof,” and added par. (2).

#### TRANSFER OF FUNCTIONS

Office of Director of Coast and Geodetic Survey abolished and Coast and Geodetic Survey consolidated with

Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director. For further details, see note set out under section 851 of this title.

#### § 883f. Contracts with qualified organizations

The Secretary of Commerce is authorized to contract with qualified organizations for the performance of any part of the authorized functions of the National Ocean Survey when he deems such procedure to be in the public interests.

(Aug. 6, 1947, ch. 504, § 6, 61 Stat. 788; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

#### TRANSFER OF FUNCTIONS

Office of Director of Coast and Geodetic Survey abolished and Coast and Geodetic Survey consolidated with Weather Bureau to form a new agency in Department of Commerce to be known as Environmental Science Services Administration, by Reorg. Plan No. 2, of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 851 of this title. The Reorg. Plan also transferred to Secretary of Commerce all functions of Coast and Geodetic Survey and Director. Subsequently, Environmental Science Services Administration abolished and National Oceanic and Atmospheric Administration established by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees. By Department Organization Order 25-5A, Secretary delegated to NOAA his functions under this chapter of the Code. By order of Acting Associate Administrator of NOAA, organizational name of Coast and Geodetic Survey changed to National Ocean Survey. For further details, see note set out under section 851 of this title.

#### § 883g. Repealed. Pub. L. 88-611, § 4(a)(2), Oct. 2, 1964, 78 Stat. 991

Section, act Aug. 6, 1947, ch. 504, § 7, 61 Stat. 788, provided for acceptance of gifts or bequests and exemption from Federal taxes. See sections 1522 and 1523 of Title 15, Commerce and Trade.

#### § 883h. Employment of public vessels

The President is authorized to cause to be employed such of the public vessels as he deems it expedient to employ, and to give such instructions for regulating their conduct as he deems proper in order to carry out the provisions of this subchapter.

(Aug. 6, 1947, ch. 504, § 8, 61 Stat. 788.)

#### DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Commerce, see section 1(l) of Ex. Ord. No. 11023, May 28, 1962, 27 F.R. 5131, set out as a note under section 301 of Title 3, The President.

#### CROSS REFERENCES

Authority to place vessels of Bureau of Fisheries on the same footing as those of the National Ocean Survey, see section 746 of Title 16, Conservation.

#### § 883i. Authorization of appropriations

There are authorized to be appropriated such funds as may be necessary to acquire, construct,

maintain, and operate ships, stations, equipment, and facilities and for such other expenditures, including personal services at the seat of government and elsewhere and including the erection of temporary observatory buildings and lease of sites therefor, as may be necessary for the conduct of the activities herein authorized.

(Aug. 6, 1947, ch. 504, § 9, 61 Stat. 788.)

#### REFERENCES IN TEXT

Herein, referred to in text, means act Aug. 6, 1947, ch. 504, 61 Stat. 787, as amended, which is classified generally to this subchapter (§883a et seq.). For complete classification of this Act to the Code, see Tables.

#### § 883j. Ocean satellite data

The Administrator of the National Oceanic and Atmospheric Administration (hereinafter referred to in this subtitle<sup>1</sup> as the "Administration") shall take such actions, including the sponsorship of applied research, as may be necessary to assure the future availability and usefulness of ocean satellite data to the maritime community.

(Pub. L. 99-272, title VI, § 6082, Apr. 7, 1986, 100 Stat. 135.)

#### REFERENCES IN TEXT

This subtitle, referred to in text, is subtitle H (§§ 6081 to 6085) of title VI of Pub. L. 99-272, Apr. 7, 1986, 100 Stat. 135, which enacted this section and section 1530 of Title 15, Commerce and Trade, amended section 883e of this title and sections 330e, 2903 and 2904 of Title 15, and repealed section 2905 of Title 15. For complete classification of this subtitle to the Code, see Tables.

#### REPORT ON SATELLITE OCEANOGRAPHY

Pub. L. 102-567, title I, § 116, Oct. 29, 1992, 106 Stat. 4279, provided that:

"(a) IN GENERAL.—The Federal Coordinating Council for Science, Engineering, and Technology through the Committee on Earth and Environmental Sciences, in consultation with Federal, academic, and commercial users of remotely sensed data, shall consider and develop findings and recommendations regarding—

"(1) the most urgent current needs of oceanographic researchers within the Federal Government, the academic community, and the private sector, for remote sensing capabilities and remotely sensed data, including findings regarding the present inadequacies in these capabilities and data; and

"(2) the major goals of satellite oceanography for the next 10 years.

"(b) REPORT.—Not later than one year after the date of enactment of this Act [Oct. 29, 1992], the Federal Coordinating Council for Science, Engineering, and Technology shall submit to the Congress a report which describes the findings and recommendations of the Committee on Earth and Environmental Sciences, including recommendations for, or a description of actions to be taken toward—

"(1) correcting the inadequacies in remote sensing capabilities;

"(2) improving the availability of remotely sensed data; and

"(3) achieving the major goals of satellite oceanography developed pursuant to subsection (a)(2)."

#### § 883k. Acquisition of land for facilities

For fiscal year 1990 and hereafter funds appropriated under this heading shall be available for acquisition of land for facilities.

<sup>1</sup> See References in Text note below.

(Pub. L. 101-162, title I, Nov. 21, 1989, 103 Stat. 992.)

## REFERENCES IN TEXT

Funds appropriated under this heading, referred to in text, refers to funds appropriated under the headings "NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION" and "OPERATIONS, RESEARCH, AND FACILITIES" of title I, "Department of Commerce", of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990, Pub. L. 101-162.

**§ 884. Power to use books, maps, etc., and to employ persons**

The President is authorized, in executing the provisions of title 56 of the Revised Statutes relating to the coast survey, to use all maps, charts, books, instruments, and apparatus belonging to the United States, and to direct where the same shall be deposited, and to employ all persons in the land or naval service of the United States, and such astronomers and other persons as he shall deem proper.

(R.S. § 4685.)

## REFERENCES IN TEXT

Title 56 of the Revised Statutes, referred to in text, was in the original "this Title", meaning title 56 of the Revised Statutes, consisting of R.S. §§ 4681 to 4691 of the Revised Statutes, which are classified to sections 881 to 883 and 884 to 888 of this title. For complete classification of R.S. §§ 4681 to 4691 to the Code, see Tables.

## CODIFICATION

Section was not enacted as part of act Aug. 6, 1947, ch. 504, 61 Stat. 787, which comprises this subchapter.

R.S. § 4685 derived from act July 10, 1832, ch. 191, § 2, 4 Stat. 571.

**§ 885. Repealed. Aug. 6, 1947, ch. 504, § 10(6), 61 Stat. 788**

Section, R.S. § 4686, related to use of public vessels on coast surveys. See section 883h of this title.

**§§ 886, 887. Repealed. June 21, 1955, ch. 172, § 5(1), (2), 69 Stat. 170**

Section 886, R.S. § 4687, related to employment of officers of Army and Navy in the work of surveying the coast of the United States.

Section 887, R.S. § 4688; acts Aug. 30, 1890, ch. 837, § 1, 26 Stat. 382; June 5, 1920, ch. 235, § 1, 41 Stat. 929, provided for allowance for subsistence to officers of Army and Navy while employed on coast survey service.

## ADDITIONAL REPEAL

Sections were also repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. Section 49(a) of act Aug. 10, 1956, provided in part that laws effective after Mar. 31, 1955, inconsistent with that act, should be considered as superseding it to the extent of the inconsistency.

**§ 888. Omitted**

## CODIFICATION

Section, R.S. §§ 264, 4690; acts Feb. 14, 1903, ch. 552, §§ 4, 10, 32 Stat. 826, 829; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736; June 5, 1920, ch. 235, § 1, 41 Stat. 929, relating to an annual statement on coast surveys by the Coast and Geodetic Survey [now the National Ocean Survey], was partially repealed by acts May 29, 1928, ch. 901, § 1(104), 45 Stat. 994; Aug. 7, 1946, ch. 770, § 1(5), 60 Stat. 866; and Aug. 30, 1954, ch. 1076, § 1(13), 68 Stat. 967. The provision relating to an annual statement of all expenditures by Coast and Geodetic Survey [now the National Ocean

Survey] is covered by section 1519 of Title 15, Commerce and Trade.

**§§ 889, 890. Repealed. June 21, 1955, ch. 172, § 5(5), 69 Stat. 170**

Section 889, acts Mar. 4, 1909, ch. 313, § 1, 35 Stat. 1064; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, authorized cooperation with North Carolina State Fish Commission in survey of waters of State.

Section 890, acts Mar. 4, 1909, ch. 313, § 2, 35 Stat. 1065; Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736, provided for marking triangulation points of North Carolina survey.

SUBCHAPTER III—NOAA FLEET  
MODERNIZATION

**§ 891. Definitions**

In this subchapter, the term—

(1) "NOAA" means the National Oceanic and Atmospheric Administration within the Department of Commerce.

(2) "NOAA fleet" means the fleet of research vessels owned or operated by NOAA.

(3) "Plan" means the NOAA Fleet Replacement and Modernization Plan described in section 891b of this title.

(4) "Secretary" means the Secretary of Commerce.

(5) "UNOLS" means University-National Oceanographic Laboratory System.

(Pub. L. 102-567, title VI, § 602, Oct. 29, 1992, 106 Stat. 4299.)

## SHORT TITLE

For short title of this subchapter as the "NOAA Fleet Modernization Act", see section 601 of Pub. L. 102-567, set out as a Short Title of 1992 Amendment note under section 851 of this title.

**§ 891a. Fleet replacement and modernization program**

The Secretary is authorized to implement, subject to the requirements of this subchapter, a 15-year program to replace and modernize the NOAA fleet.

(Pub. L. 102-567, title VI, § 603, Oct. 29, 1992, 106 Stat. 4300.)

## REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this Act", and was translated as reading "this title", meaning title VI of Pub. L. 102-567, which enacted this subchapter, to reflect the probable intent of Congress.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 891b of this title.

**§ 891b. Fleet replacement and modernization Plan**

**(a) In general**

To carry out the program authorized in section 891a of this title, the Secretary shall develop and submit to Congress a replacement and modernization Plan for the NOAA fleet covering the years authorized under section 891h of this title.

**(b) Timing**

The Plan required in subsection (a) of this section shall be submitted to Congress within 30

days of October 29, 1992, and updated on an annual basis.

**(c) Plan elements**

The Plan required in subsection (a) of this section shall include the following—

- (1) the number of vessels proposed to be modernized or replaced, the schedule for their modernization or replacement, and anticipated funding requirements;
- (2) the number of vessels proposed to be constructed, leased, or chartered;
- (3) the number of vessels, or days at sea, that can be obtained by using the vessels of the UNOLS;
- (4) the number of vessels that will be made available to NOAA by the Secretary of the Navy, or any other federal<sup>1</sup> official, and the terms and conditions for their availability;
- (5) the proposed acquisition of modern scientific instrumentation for the NOAA fleet, including acoustic systems, data transmission positioning and communication systems, physical, chemical, and meteorological oceanographic systems, and data acquisition and processing systems; and
- (6) the appropriate role of the NOAA Corps in operating and maintaining the NOAA fleet.

**(d) Contracting limitation**

The Secretary may not enter into any contract for the construction, lease, or service life extension of a vessel of the NOAA fleet before the date of the submission to Congress of the Plan required in subsection (a) of this section.

(Pub. L. 102-567, title VI, § 604, Oct. 29, 1992, 106 Stat. 4300.)

DEACTIVATION OF NOAA RESEARCH VESSELS

Section 401(b)(4) of Pub. L. 102-567 provided that:

“(A) Unless necessary for safety reasons, the Secretary of Commerce shall not deactivate the ALBATROSS IV (if active), until an equivalent replacement vessel is operational.

“(B) The Secretary of Commerce shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries [now Committee on Science] of the House of Representatives 60 days prior to the proposed deactivation of any other research vessel of the National Oceanic and Atmospheric Administration, if an equivalent replacement vessel will not become operational at the time of deactivation.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 891, 891c of this title.

**§ 891c. Design of NOAA vessels**

**(a) Design requirement**

Except for the vessel designs identified under subsection (b) of this section, the Secretary, working through the Office of the NOAA Corps Operations and the Systems Procurement Office, shall—

- (1) prepare requirements for each class of vessel to be constructed or converted under the Plan; and
- (2) contract competitively from nongovernmental entities with expertise in shipbuilding

for vessel design and construction based on the requirements for each class of vessel to be acquired.

**(b) Exception**

The Secretary shall—

- (1) report to Congress identifying any existing vessel design or design proposal that meets the requirements of the Plan within 30 days after October 29, 1992, and shall promptly advise the Congress of any modification of these designs; and
- (2) submit to Congress as part of the annual update of the Plan required in section 891b of this title, any subsequent existing vessel design or design proposals that meet the requirements of the Plan.

(Pub. L. 102-567, title VI, § 605, Oct. 29, 1992, 106 Stat. 4300.)

**§ 891d. Contract authority**

**(a) Multiyear contracts**

**(1) In general**

Subject to paragraphs (2) and (3), and notwithstanding section 1341 of title 31 and section 11 of title 41, the Secretary may acquire vessels for the NOAA fleet by purchase, lease, lease-purchase, or otherwise, under one or more multiyear contracts.

**(2) Required findings**

The Secretary may not enter into a contract pursuant to this subsection unless the Secretary finds with respect to that contract that—

- (A) there is a reasonable expectation that throughout the contemplated contract period the Secretary will request from Congress funding for the contract at the level required to avoid contract termination; and
- (B) the use of the contract will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the NOAA fleet.

**(3) Required contract provisions**

The Secretary may not enter into a contract pursuant to this subsection unless the contract includes—

- (A) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;
- (B) a provision that specifies the term of effectiveness of the contract; and
- (C) appropriate provisions under which, in case of any termination of the contract before the end of the term specified pursuant to subparagraph (B), the United States shall only be liable for the lesser of—

- (i) an amount specified in the contract for such a termination; or
- (ii) amounts that—

(I) were appropriated before the date of the termination for the performance of the contract or for procurement of the type of acquisition covered by the contract; and

(II) are unobligated on the date of the termination.

<sup>1</sup> So in original. Probably should be capitalized.

**(b) Service contracts**

Notwithstanding any other provision of law, the Secretary may enter into multiyear contracts for oceanographic research, fisheries research, and mapping and charting services to assist the Secretary in fulfilling NOAA missions. The Secretary may only enter into these contracts if—

- (1) the Secretary finds that it is in the public interest to do so;
- (2) the contract is for not more than 7 years; and
- (3)(A) the cost of the contract is less than the cost (including the cost of operation, maintenance, and personnel) to the NOAA of obtaining those services on NOAA vessels; or
- (B) NOAA vessels are not available or cannot provide those services.

**(c) Bonding authority**

Notwithstanding any other law, the Secretary may not require a contractor for the construction, alteration, repair or maintenance of a NOAA vessel to provide a bid bond, payment bond, performance bond, completion bond, or other surety instrument in an amount greater than 20 percent of the value of the base contract quantity (excluding options) unless the Secretary determines that requiring an instrument in that amount will not prevent a responsible bidder or offeror from competing for the award of the contract.

(Pub. L. 102-567, title VI, §606, Oct. 29, 1992, 106 Stat. 4301.)

**§ 891e. Restriction with respect to certain shipyard subsidies****(a) In general**

The Secretary of Commerce may not award a contract for the construction, repair (except emergency repairs), or alteration of any vessel of the National Oceanic and Atmospheric Administration in a shipyard, if that vessel benefits or would benefit from significant subsidies for the construction, repair, or alteration of vessels in that shipyard.

**(b) “Significant subsidy” defined**

In this section, the term “significant subsidy” includes, but is not limited to, any of the following:

- (1) Officially supported export credits.
- (2) Direct official operating support to the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including but not limited to—
  - (A) grants;
  - (B) loans and loan guarantees other than those available on the commercial market;
  - (C) forgiveness of debt;
  - (D) equity infusions on terms inconsistent with commercially reasonable investment practices; and
  - (E) preferential provision of goods and services.
- (3) Direct official support for investment in the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including but

not limited to the kinds of support listed in paragraph (2)(A) through (E), and any restructuring support, except public support for social purposes directly and effectively linked to shipyard closures.

(4) Assistance in the form of grants, preferential loans, preferential tax treatment, or otherwise, that benefits or is directly related to shipbuilding and repair for purposes of research and development that is not equally open to domestic and foreign enterprises.

(5) Tax policies and practices that favor the shipbuilding and repair industry, directly or indirectly, such as tax credits, deductions, exemptions, and preferences, including accelerated depreciation, if such benefits are not generally available to persons or firms not engaged in shipbuilding or repair.

(6) Any official regulation or practice that authorizes or encourages persons or firms engaged in shipbuilding or repair to enter into anticompetitive arrangements.

(7) Any indirect support directly related, in law or in fact, to shipbuilding and repair at national yards, including any public assistance favoring shipowners with an indirect effect on shipbuilding or repair activities, and any assistance provided to suppliers of significant inputs to shipbuilding, which results in benefits to domestic shipbuilders.

(8) Any export subsidy identified in the Illustrative List of Export Subsidies in the Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade or any other export subsidy that may be prohibited as a result of the Uruguay Round of trade negotiations.

(Pub. L. 102-567, title VI, §607, Oct. 29, 1992, 106 Stat. 4302.)

**§ 891f. Use of vessels****(a) Vessel agreements**

In implementing the NOAA fleet replacement and modernization program, the Secretary shall use excess capacity of UNOLS vessels where appropriate and may enter into memoranda of agreement with the operators of these vessels to carry out this requirement.

**(b) Report to Congress**

Within one year after October 29, 1992, the Comptroller General of the United States shall provide a report to Congress, in consultation with the Secretary, comparing the cost-efficiency, accounting, and operating practices of the vessels of NOAA, UNOLS, other Federal agencies, and the United States private sector in meeting the missions of NOAA.

(Pub. L. 102-567, title VI, §608, Oct. 29, 1992, 106 Stat. 4303.)

**§ 891g. Interoperability**

The Secretary shall consult with the Oceanographer of the Navy regarding appropriate measures that should be taken, on a reimbursable basis, to ensure that NOAA vessels are interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels.

(Pub. L. 102-567, title VI, §609, Oct. 29, 1992, 106 Stat. 4303.)

INTEROPERABILITY OF VESSELS

Section 401(b)(5) of Pub. L. 102-567 provided that: "The Secretary of Commerce shall consult with the Oceanographer of the Navy regarding appropriate cost effective and practical measures to allow vessels of the National Oceanic and Atmospheric Administration to be interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels."

§ 891h. Authorization of appropriations

(a) In general

There are authorized to be appropriated to the Secretary for carrying out this subchapter—

- (1) \$50,000,000 for fiscal year 1993;
- (2) \$100,000,000 for fiscal year 1994; and
- (3) such sums as are necessary for each of the fiscal years 1995, 1996, and 1997.

(b) Limitation on fleet modernization activities

All National Oceanic and Atmospheric Administration fleet modernization shipbuilding, and conversion shall be conducted in accordance with this subchapter.

(Pub. L. 102-567, title VI, §610, Oct. 29, 1992, 106 Stat. 4303.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 891b of this title.

CHAPTER 18—LONGSHORE AND HARBOR WORKERS' COMPENSATION

- 901. Short title.
- 902. Definitions.
- 903. Coverage.
  - (a) Disability or death; injuries occurring upon navigable waters of United States.
  - (b) Government officers and employees.
  - (c) Intoxication; willful intention to kill.
  - (d) Small vessels.
  - (e) Credit for benefits paid under other laws.
- 904. Liability for compensation.
- 905. Exclusiveness of liability.
  - (a) Employer liability; failure of employer to secure payment of compensation.
  - (b) Negligence of vessel.
  - (c) Outer Continental Shelf.
- 906. Compensation.
  - (a) Time for commencement.
  - (b) Maximum rate of compensation.
  - (c) Applicability of determinations.
- 907. Medical services and supplies.
  - (a) General requirement.
  - (b) Physician selection; administrative supervision; change of physicians and hospitals.
  - (c) Physicians and health care providers not authorized to render medical care or provide medical services.
  - (d) Request of treatment or services prerequisite to recovery of expenses; formal report of injury and treatment; suspension of compensation for refusal of treatment or examination; justification.
  - (e) Physical examination; medical questions; report of physical impairment; review or reexamination; costs.

- 908. Compensation for disability.
- 909. Compensation for death.
- 910. Determination of pay.
- 911. Guardian for minor or incompetent.
- 912. Notice of injury or death.
  - (a) Time limitation.
  - (b) Form and content.
  - (c) Delivery requirements.
  - (d) Failure to give notice.
- 913. Filing of claims.
  - (a) Time to file.
  - (b) Failure to file.
  - (c) Effect on incompetents and minors.
  - (d) Tolling provision.
- 914. Payment of compensation.
  - (a) Manner of payment.
  - (b) Period of installment payments.
  - (c) Notification of commencement or suspension of payment.
  - (d) Right to compensation controverted.
  - (e) Additional compensation for overdue installment payments payable without award.
  - (f) Additional compensation for overdue installment payments payable under terms of award.
  - (g) Notice of payment; penalty.
  - (h) Investigations, examinations, and hearings for controverted, stopped, or suspended payments.
  - (i) Deposit by employer.
  - (j) Reimbursement for advance payments.
  - (k) Receipt for payment.
- 915. Invalid agreements.
- 916. Assignment and exemption from claims of creditors.
- 917. Lien against compensation.
- 918. Collection of defaulted payments; special fund.
- 919. Procedure in respect of claims.
  - (a) Filing of claim.
  - (b) Notice of claim.
  - (c) Investigations; order for hearing; notice; rejection or award.
  - (d) Provisions governing conduct of hearing; administrative law judges.
  - (e) Filing and mailing of order rejecting claim or making award.
  - (f) Awards after death of employee.
  - (g) Transfer of case.
  - (h) Physical examination of injured employee.
- 920. Presumptions.
- 921. Review of compensation orders.
  - (a) Effectiveness and finality of orders.
  - (b) Benefits Review Board; establishment; members; chairman; quorum; voting; questions reviewable; record; conclusiveness of findings; stay of payments; remand.

- (f) Place of examination; exclusion of physicians other than examining physician of Secretary; good cause for conclusions of other physicians respecting impairment; examination by employer's physician; suspension of proceedings and compensation for refusal of examination.
- (g) Fees and charges for examinations, treatment, or service; limitation; regulations.
- (h) Third party liability.
- (i) Physicians' ineligibility for subsection (e) physical examinations and reviews because of workmen's compensation claim employment or fee acceptance or participation.
- (j) Procedure; judicial review.
- (k) Refusal of treatment on religious grounds.