Guard, as set out in section 1 of this Act, in which any section is placed, nor by reason of the catch lines used in such title."

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

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63 Stat. 558, provided that: "All orders, rules, and regulations of the Coast Guard in effect under provisions of law superseded or amended by this Act shall, to the extent they would have been authorized under this Act, remain in force and effect as the regulations and orders under the provisions of this Act and shall be administered and enforced under this Act as nearly as may be until specifically repealed, amended, or revised."

**Reduction in Grade, Rank, Pay, Allowances, and Benefits**
Act Aug. 4, 1949, ch. 393, §5, 63 Stat. 558, provided that: "Nothing contained in this Act shall operate to abolish or reduce the grade, rank, rating, pay, allowances, or other benefits to which any person in the Coast Guard is entitled on the effective date of this Act."

**PART I—REGULAR COAST GUARD**

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**Amendments**
1976—Pub. L. 94–546 substituted "Department of Transportation" for "Treasury Department".

**Effective Date of 2002 Amendment**
Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

**Short Title of 2010 Amendment**
Pub. L. 111–281, title V, §501, Oct. 15, 2010, 124 Stat. 2951, provided that: "This title [enacting sections 57 to 59, 102, and 200 of this title and section 2116 of Title 46, Shipping, amending sections 47, 50, 51, 52, 53, and 290 of this title and section 3309 of Title 46, repealing section 50a of this title, and enacting provisions set out as a note under section 50 of this title] may be cited as the 'Coast Guard Modernization Act of 2010'."

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

**Short Title of 2004 Amendment**
Pub. L. 108–283, §1, Aug. 9, 2004, 118 Stat. 1028, provided that: "This Act [see Tables for classification] may be referred to as the 'Coast Guard and Maritime Transportation Act of 2004'."

**Short Title of 2002 Amendment**
Pub. L. 107–296, title III, §301, Nov. 25, 2002, 116 Stat. 2102, provided that: "This title [amending sections 259, 260, 271, 336, and 511 of this title, sections 1203, 1231a,
The Coast Guard shall enforce or assist in the enforcement of all applicable Federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States; shall engage in maritime air surveillance or interdiction to enforce or assist in the enforcement of the laws of the United States; shall administer laws and promulgate and enforce regulations for the promotion of safety of life and property on and under the high seas and waters subject to the jurisdiction of the United States covering all matters not specifically delegated by law to some other executive department; shall develop, establish, maintain, and operate, with due regard to the requirements of national defense, aids to maritime navigation, ice-breaking facilities, and rescue facilities for the promotion of safety on, under, and over the high seas and waters subject to the jurisdiction of the United States; shall engage in oceanographic research of the high seas and in waters subject to the jurisdiction of the United States; and shall maintain a state of readiness to function as a specialized service in the Navy in time of war, including the fulfillment of Maritime Defense Zone command responsibilities.¹

¹So in original.

¹So in original.
and for treatment of related references, see sections 468(b), 535(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ANNUAL REPORT ON COAST GUARD CAPABILITIES AND READINESS TO FULFILL NATIONAL DEFENSE RESPONSIBILITIES

Pub. L. 107–296, title IV, § 426, Nov. 25, 2002, 116 Stat. 2126, provided that: “Not later than February 15 each year, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, prepared in conjunction with the Commandant of the Coast Guard, setting forth the capabilities and readiness of the Coast Guard to fulfill its national defense responsibilities.”

§ 3. Relationship to Navy Department

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


HISTORICAL AND REVISION NOTES


Said section has been divided. The provisions relating to the establishment of the Coast Guard are placed in section 1 of this title. The provisions relating to appropriations are placed in section 4 of this title.

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

AMENDMENTS

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


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

EFFECTIVE DATE OF 2002 AMENDMENT

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

§ 4. Operation as a service in the Navy

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

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

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

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

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

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

(Historical and Revision Notes)

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

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

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


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


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


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

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

AMENDMENTS

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

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

EFFECTIVE DATE OF 1950 AMENDMENT

Section 5 of act May 5, 1950, provided that the amendment made by that section is effective May 31, 1951.
§ 41. Grades and ratings

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


HISTORICAL AND REVISION NOTES

1949 ACT

Based on title 14, U.S.C., 1946 ed., §§ 5, 21 (Apr. 12, 1902, ch. 501, § 1, 31 Stat. 100; Jan. 28, 1915, ch. 20, § 2, 38 Stat. 601; May 15, 1920, ch. 109, § 6, 41 Stat. 603; June 5, 1920, ch. 253, § 1, 41 Stat. 679; Jan. 12, 1923, ch. 25, §§ 1, 2, 42 Stat. 1130; July 9, 1923, ch. 742, §§ 3, 9, 10, 44 Stat. 817). The grades of vice admiral and rear admiral are added to make provision for the commissioned officer personnel structure of the service as provided for in this revision. The entire rating structure for enlisted men is left to the administrative discretion of the Secretary, as in the past, for reasons of flexibility.

The last two paragraphs of said section 5 are obsolete and have been omitted. Changes were made in phraseology. 81st Congress, House Report No. 557.

1956 ACT

AMENDMENTS


Revised section

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<td>34:15a(a)</td>
<td>(less last sentence, as applicable to temporary appointments).</td>
<td>May 29, 1954, ch. 249, § 3(a) (less 3d and last sentences, as applicable to temporary appointments), 68 Stat. 157.</td>
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1994—Pub. L. 103–337 substituted “chief warrant officers; cadets; warrant officers;” for “chief warrant officers, W–4; chief warrant officers, W–3; chief warrant officers, W–2; cadets; warrant officers, W–1;.”


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


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

EFFECTIVE DATE OF 1994 AMENDMENT

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

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–451 effective Oct. 2, 1972, except that continuation boards may not be held until
§ 41a. Active duty promotion list

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

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

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

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

Amendments
1981—Subsec. (b). Pub. L. 103–206 struck out before period at end of second sentence “, except that the rear admiral serving as Chief of Staff shall be the senior rear admiral for all purposes other than pay”.
1973—Subsec. (a). Pub. L. 97–136, §6(a)(1), substituted “Reserve officers on active duty, other than pursuant to an active duty agreement executed under section 679 of title 10, retired officers, and officers of the permanent commissioned teaching staff of the Coast Guard Academy shall not” for “Retired officers and officers of the permanent commissioned teaching staff of the Coast Guard Academy shall not”.}

§ 42. Number and distribution of commissioned officers on active duty promotion list

(a) Maximum Total Number.—The total number of Coast Guard commissioned officers on the active duty promotion list, excluding warrant officers, shall not exceed 7,200; except that the Commandant may temporarily increase that number by up to 2 percent for no more than 60 days following the date of the commissioning of a Coast Guard Academy class.

(b) Distribution Percentages by Grade.—

(1) Required.—The total number of commissioned officers authorized by this section shall be distributed in grade in the following percentages: 0.375 percent for rear admiral; 0.375 percent for rear admiral (lower half); 6.0 percent for captain; 15.0 percent for commander; and 22.0 percent for lieutenant commander.

(2) Discretionary.—The Secretary shall prescribe the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign.

(c) Authority of Secretary to Reduce Percentage.—The Secretary—

(A) may reduce, as the needs of the Coast Guard require, any of the percentages set forth in paragraph (1); and

(B) shall apply that total percentage reduction to any other lower grade or combination of lower grades.

(c) Computations.—

(1) In General.—The Secretary shall compute, at least once each year, the total number of commissioned officers authorized to serve in each grade by applying the grade distribution percentages established by or under this section to the total number of commissioned officers listed on the current active duty promotion list.

(2) Rounding Fractions.—Subject to subsection (a), in making the computations under paragraph (1), any fraction shall be rounded to the nearest whole number.

(3) Treatment of Officers Serving Outside Coast Guard.—The number of commissioned officers on the active duty promotion list below the rank of rear admiral (lower half) serving with other Federal departments or agencies on a reimbursable basis or excluded under section 324(d) of title 49 shall not be counted against the total number of commissioned officers authorized to serve in each grade.

(d) Use of Numbers; Temporary Increases.—The numbers resulting from computations under subsection (c) shall be, for all purposes, the authorized number in each grade; except that the authorized number for a grade is temporarily increased during the period between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.
(e) Officers Serving Coast Guard Academy and Reserve.—The number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy and of the Reserve serving in connection with organizing, administering, recruiting, instructing, or training the reserve components shall be prescribed by the Secretary.


**Historical and Revision Notes**


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

**Amendments**

1939—Pub. L. 111–281 amended section generally. Prior to amendment, section consisted of subsections (a) to (e) relating to number and distribution of commissioned officers.


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

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

1965—Subsec. (b). Pub. L. 99–145 substituted ‘‘rear admiral (lower half)’’ for ‘‘commander’’.

1981—Subsec. (b). Pub. L. 98–557 substituted ‘‘0.375’’ for ‘‘0.375’’ in two places.

1973—Subsec. (b). Pub. L. 97–417 substituted ‘‘0.375; commodore 0.375; for ‘‘0.75;’’ after ‘‘rear admiral’’.


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

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

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

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

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

1962—Pub. L. 88–130 specified percentage of distribution of commissioned officers from rear admirals to lieutenant commander, authorized Secretary to prescribe percentages for lieutenant, (junior grade), and ensign, required number in each grade to be computed by applying the applicable percentage to the total number of officers serving on active duty on the date the computation is made, provided that officers not on the active duty promotion list, officers serving as extra numbers in grade, and officers serving with other departments or agencies on a reimbursable basis shall not be counted in determining authorized strengths and that the number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy, of the Reserve, and of the Women’s Reserve shall be prescribed by the Secretary, and struck out provisions which included in the number of commissioned officers the extra numbers in grade which increase the authorized number of line officers upon separation or retirement of the person holding such number, and the members of the permanent commissioned teaching staff of the Coast Guard Academy, distributed commissioned officers in grades in the same percentages as prescribed for the Navy, determined authorized number of officers in the various grades by the actual number on active duty, including permanent, temporary, and reserve officers, but not including extra numbers in the Coast Guard at the date of making the computation, and which provided that no officer be reduced in permanent grade or pay or removed from the active list as a result of any computation of the number of officers in grade.

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

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

**Effective Date of 1972 Amendment**

Amendment by Pub. L. 92–451 effective Oct. 2, 1972, except that continuation boards may not be held until one year thereafter, see section 3 of Pub. L. 92–451, set out as a note under section 250 of this title.


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

**§ 44. Commandant; appointment**

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


**Historical and Revision Notes**


§ 46. Retirement of Commandant

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

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

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

Historical and Revision Notes


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

AMENDMENTS

1993—Subsec. (a). Pub. L. 102-386 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Any Commandant who is not reappointed shall, at the expiration of his term, be retired with the grade of admiral."

1966—Pub. L. 89-349 struck out "and retired pay computed at the highest rates of basic pay applicable to him while he served as Commandant" after "admiral" in subsecs. (a) to (c).


1961—Subsec. (c). Pub. L. 84-444, §1(4), repealed subsec. (d) which provided that a Commandant who retired within 2½ years of the date of his original appointment as Commandant would retire in his permanent grade and with the retired pay of that grade.

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

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

§ 47. Vice commandant; 1 appointment

The President may appoint, by and with the advice and consent of the Senate, one Vice Commandant who shall rank next after the Commandant, shall perform such duties as the Commandant may prescribe and shall act as Commandant during the absence or disability of the

1 So in original. Probably should be "section".
Commandant or in the event that there is a vacancy in the office of Commandant. The Vice Commandant shall be selected from the officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendation for such appointment. The Vice Commandant shall, while so serving, have the grade of vice admiral with pay and allowances of that grade. The appointment and grade of a Vice Commandant shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.


HISTORICAL AND REVISION NOTES


The provisions regarding appointment of the Assistant Commandant and Engineer in Chief are coordinated, inasmuch as these positions are about equal in the Coast Guard organization. The qualification that the Engineer in Chief be appointed from the active list of engineering officers is changed to the active list of officers who have qualified for engineering duty, because there is no longer any provision for a corps of engineering officers. 81st Congress, House Report No. 557.

AMENDMENTS

2010—Pub. L. 111–281 substituted “Vice commandant; appointment” for “Vice Commandant; assignment” in section catchline and “section 51(d)” for “subsection 51(d)” in text.

1993—Pub. L. 103–206 struck out “; retirement” after “assignment” in section catchline, struck out “(a)” before “The President may appoint,” substituted “The appointment and grade of a Vice Commandant shall be effective on the date the officer assumes” for “The appointment of a Vice Commandant” and “shall be effective on the date the officer assumes such duty, and shall terminate on the date he is detached from such duty,”; and struck out subsections (b) to (d) which read as follows: “(b) A Vice Commandant, while so serving, who is retired for physical disability shall be placed on the retired list with the grade of vice admiral.” “(c) An officer who is retired while serving as Vice Commandant, or who, after serving at least two and one-half years as Vice Commandant, is retired after completion of that service while serving in a lower rank or grade, shall be retired in his permanent grade.” “(d) An officer who, after serving less than two and one-half years as Vice Commandant, is retired after completion of that service while serving in a lower rank or grade, shall be retired in his permanent grade.”


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


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

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

1963—Subsec. (a). Pub. L. 88–130, §1(5), substituted “officers on the active duty promotion list serving in the grade of captain or above” for “active list of officers who hold a permanent commission as captain or above”, raised grade of Assistant Commandant from rear admiral to vice admiral, increased his pay and allowances from that of a rear admiral (upper half) to that of a vice admiral, struck out provisions which related to an Engineer in Chief, and added subsections (b) to (d).

EFFECTIVE DATE OF 1972 AMENDMENT

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

EFFECTIVE DATE OF HIGHER GRADE AND INCREASED PAY AND ALLOWANCES

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


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

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

§ 50. Vice admirals

(a) The President may designate no more than four positions of importance and responsibility that shall be held by officers who—

(A) while so serving, shall have the grade of vice admiral, with the pay and allowances of that grade; and

(B) shall perform such duties as the Commandant may prescribe.

(2) The President may appoint, by and with the advice and consent of the Senate, and re-
appoint, by and with the advice and consent of the Senate, to any such position an officer of the Coast Guard who is serving on active duty above the grade of captain. The Commandant shall make recommendations for such appointments.

(3)(A) Except as provided in subparagraph (B), one of the vice admirals designated under paragraph (1) must have at least 10 years experience in vessel inspection, marine casualty investigations, mariner licensing, or an equivalent technical expertise in the design and construction of commercial vessels, with at least 4 years of leadership experience at a staff or unit carrying out marine safety functions and shall serve as the principal advisor to the Commandant on these issues.

(B) The requirements of subparagraph (A) do not apply to such vice admiral if the subordinate officer serving in the grade of rear admiral with responsibilities for marine safety, security, and stewardship possesses that experience.

(b)(1) The appointment and the grade of vice admiral shall be effective on the date the officer assumes that duty and, except as provided in paragraph (2) of this subsection or in section 51(d) of this title, shall terminate on the date the officer is detached from that duty.

(2) An officer who is appointed to a position designated under subsection (a) shall continue to hold the grade of vice admir—

(A) while under orders transferring the officer to another position designated under subsection (a), beginning on the date the officer is detached from that duty and terminating on the date before the day the officer assumes the subsequent duty, but not for more than 60 days;

(B) while hospitalized, beginning on the day of the hospitalization and ending on the day the officer is discharged from the hospital, but not for more than 180 days; and

(C) while awaiting retirement, beginning on the date the officer is detached from duty and ending on the day before the officer’s retirement, but not for more than 60 days.

(c)(1) An appointment of an officer under subsection (a) does not vacate the permanent grade held by the officer.

(2) An officer serving in a grade above rear admiral who holds the permanent grade of rear admiral (lower half) shall be considered for promotion to the permanent grade of rear admiral as if the officer was serving in the officer’s permanent grade.

(d) Whenever a vacancy occurs in a position designated under subsection (a), the Commandant shall inform the President of the qualifications needed by an officer serving in that position or office to carry out effectively the duties and responsibilities of that position or office.


AMENDMENTS

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

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

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

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

Subsec. (d)(2). Pub. L. 111–281, § 511(c)(2), substituted ‘‘or Vice Admiral’’ for ‘‘Area Commander, or Chief of Staff’’.

1989—Subsec. (a). Pub. L. 101–225, title II, § 205(b)(3), substituted ‘‘in the grade of vice admiral’’ for ‘‘as Commander, Atlantic Area, or Commander, Pacific Area’’.

Subsec. (b). Pub. L. 101–225, title II, § 205(c)(2), substituted ‘‘in the grade of vice admiral’’ for ‘‘as Commander, Atlantic Area, or Commander, Pacific Area’’.


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

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

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

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


Amendments
2010—Subsecs. (a) to (c). Pub. L. 111–281, § 511(c)(1), added subsecs. (a) to (c) and struck out former subsecs. (a) to (c) which read as follows:

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

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

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

1986—Subsecs. (a), (b), Pub. L. 99–348, § 205(b)(3)(A), substituted ‘‘in the grade of vice admiral’’ for ‘‘as Commander, Atlantic Area, or Commander, Pacific Area’’.


1982—Pub. L. 97–322 substituted ‘‘Vice admirals and admiral, continuity of grade’’ for ‘‘Vice admirals, continuity of grade’’ in section catchline and inserted ‘‘or admiral’’ after ‘‘allowances as a vice admiral’’ in text.
§ 55. District Ombudsmen

(a) IN GENERAL.—The Commandant shall appoint, in each Coast Guard District a District Ombudsmen to serve as a liaison between ports, terminal operators, shipowners, and labor representatives and the Coast Guard.

(b) PURPOSE.—The purpose of the District Ombudsmen shall be the following:

(1) To promote the operations of the Coast Guard in each port in the District for which the District Ombudsmen is appointed.

(2) To improve communications between and among port stakeholders including, port and terminal operators, shipowners, labor representatives, and the Coast Guard.

(3) To seek to resolve disputes between the Coast Guard and all petitioners regarding requirements imposed or services provided by the Coast Guard.

(c) FUNCTIONS.—

(1) COMPLAINTS.—The District Ombudsmen may examine complaints brought to the attention of the District Ombudsmen by a petitioner operating in a port or by Coast Guard personnel.

(2) GUIDELINES FOR DISPUTES.—

(A) IN GENERAL.—The District Ombudsmen shall develop guidelines regarding the types of disputes with respect to which the District Ombudsmen will provide assistance.

(B) LIMITATION.—The District Ombudsmen shall not provide assistance with respect to a dispute unless it involves the impact of Coast Guard requirements on port business and the flow of commerce.

(C) PRIORITY.—In providing such assistance, the District Ombudsmen shall give priority to complaints brought by petitioners who believe they will suffer a significant hardship as the result of implementing a Coast Guard requirement or being denied a Coast Guard service.

(3) CONSULTATION.—The District Ombudsmen may consult with any Coast Guard personnel who can aid in the investigation of a complaint.

(4) ACCESS TO INFORMATION.—The District Ombudsmen shall have access to any Coast Guard document, including any record or report, that will aid the District Ombudsmen in obtaining the information needed to conduct an investigation of a complaint.

(5) REPORTS.—At the conclusion of an investigation, the District Ombudsmen shall submit a report on the findings and recommendations of the District Ombudsmen, to the Commandant of the District in which the petitioner who brought the complaint is located or operating.

(d) APPOINTMENT.—The Commandant shall appoint as the District Ombudsmen an individual who has experience in port and transportation systems and knowledge of port operations or maritime commerce (or both).

(e) ANNUAL REPORTS.—The Secretary shall report annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the matters brought before the District Ombudsmen, including:

(1) the number of matters brought before each District Ombudsmen;

(2) a brief summary of each such matter; and

(3) the eventual resolution of each such matter.


§ 56. Chief Acquisition Officer

(a) IN GENERAL.—There shall be in the Coast Guard a Chief Acquisition Officer selected by the Commandant who shall be a Rear Admiral or civilian from the Senior Executive Service (career reserved) and who meets the qualifications set forth under subsection (b). The Chief Acquisition Officer shall serve at the Assistant Commandant level and have acquisition management as that individual’s primary duty.

(b) QUALIFICATIONS.—

(1) The Chief Acquisition Officer and any flag officer serving in the Acquisition Directorate shall be an acquisition professional with a Level III acquisition management certification and must have at least 10 years experience in an acquisition position, of which at least 4 years were spent as—

(A) the program executive officer;

(B) the program manager of a Level 1 or Level 2 acquisition project or program;

(C) the deputy program manager of a Level 1 or Level 2 acquisition;

(D) the project manager of a Level 1 or Level 2 acquisition; or

(E) any other acquisition position of significant responsibility in which the primary duties are supervisory or management duties.

(2) The Commandant shall periodically publish a list of the positions designated under paragraph (1).

(3) In this subsection each of the terms “Level 1 acquisition” and “Level 2 acquisition” has the meaning that term has in chapter 15 of this title.

(c) FUNCTIONS OF THE CHIEF ACQUISITION OFFICER.—The functions of the Chief Acquisition Officer include—

(1) monitoring the performance of acquisition projects and programs on the basis of applicable performance measurements and advising the Commandant, through the chain of command, regarding the appropriate business strategy to achieve the missions of the Coast Guard;

(2) maximizing the use of full and open competition at the prime contract and subcontract levels in the acquisition of property,
capabilities, assets, and services by the Coast Guard by establishing policies, procedures, and practices that ensure that the Coast Guard receives a sufficient number of sealed bids or competitive proposals from responsible sources to fulfill the Government’s requirements, including performance and delivery schedules, at the lowest cost or best value considering the nature of the property, capability, asset, or service procured;

(3) making acquisition decisions in concurrence with the technical authority, or technical authorities, of the Coast Guard, as designated by the Commandant, consistent with all other applicable laws and decisions establishing procedures within the Coast Guard;

(4) ensuring the use of detailed performance specifications in instances in which performance-based contracting is used;

(5) managing the direction of acquisition policy for the Coast Guard, including implementation of the unique acquisition policies, regulations, and standards of the Coast Guard;

(6) developing and maintaining an acquisition career management program in the Coast Guard to ensure that there is an adequate acquisition workforce;

(7) assessing the requirements established for Coast Guard personnel regarding knowledge and skill in acquisition resources and management and the adequacy of such requirements for facilitating the achievement of the performance goals established for acquisition management;

(8) developing strategies and specific plans for hiring, training, and professional development; and

(9) reporting to the Commandant, through the chain of command, on the progress made in improving acquisition management capability.


SELECTION DEADLINE

Pub. L. 111–281, title IV, §401(c), Oct. 15, 2010, 124 Stat. 2930, provided that: “As soon as practicable after the date of enactment of this Act (Oct. 15, 2010), but no later than October 1, 2011, the Commandant of the Coast Guard shall select a Chief Acquisition Officer under section 56 of title 14, United States Code, as amended by this section.”

SPECIAL RATE SUPPLEMENTS


“(1) REQUIREMENT TO ESTABLISH.—Not later than one year after the date of enactment of this Act (Oct. 15, 2010) and in accordance with section 9701.333 of title 5, Code of Federal Regulations, the Commandant of the Coast Guard shall establish special rate supplements that provide higher pay levels for employees necessary to carry out the amendment made by this section [adding this section].

“(2) SUBJECT TO APPROPRIATIONS.—The requirement under paragraph (1) is subject to the availability of appropriations.”

ELEVATION OF DISPUTES TO THE CHIEF ACQUISITION OFFICER

Pub. L. 111–281, title IV, §401(e), Oct. 15, 2010, 124 Stat. 2931, provided that: “If, after 90 days following the elevation to the Chief Acquisition Officer of any design or other dispute regarding Level 1 or Level 2 acquisition, the dispute remains unresolved, the Commandant shall provide to the appropriate congressional committees a detailed description of the issue and the rationale underlying the decision taken by the Chief Acquisition Officer to resolve the issue.”

§57. PREVENTION AND RESPONSE WORKFORCES

(a) CAREER PATHS.—The Secretary, acting through the Commandant, shall ensure that appropriate career paths for civilian and military Coast Guard personnel who wish to pursue career paths in prevention or response positions are identified in terms of the education, training, experience, and assignments necessary for career progression of civilians and members of the Armed Forces to the most senior prevention or response positions, as appropriate. The Secretary shall make available published information on such career paths.

(b) QUALIFICATIONS FOR CERTAIN ASSIGNMENTS.—An officer, member, or civilian employee of the Coast Guard assigned as a—

(1) marine inspector shall have the training, experience, and qualifications equivalent to that required for a similar position at a classification society recognized by the Secretary under section 3316 of title 46 for the type of vessel, system, or equipment that is inspected;

(2) marine casualty investigator shall have the training, experience, and qualifications in investigation, marine casualty reconstruction, evidence collection and preservation, human factors, and documentation using best investigation practices by Federal and non-Federal entities; or

(3) marine safety engineer shall have knowledge, skill, and practical experience in—

(A) the construction and operation of commercial vessels;

(B) judging the character, strength, stability, and safety qualities of such vessels and their equipment; or

(C) the qualifications and training of vessel personnel.

(c) APPRENTICESHIP REQUIREMENT TO QUALIFY FOR CERTAIN CAREERS.—The Commandant may require an officer, member, or employee of the Coast Guard in training for a specialized prevention or response career path to serve an apprenticeship under the guidance of a qualified individual. However, an individual in training to become a marine inspector, marine casualty investigator, or marine safety engineer shall serve a minimum of one year as an apprentice unless the Commandant authorizes a shorter period for certain qualifications.

(d) MANAGEMENT INFORMATION SYSTEM.—The Secretary, acting through the Commandant, shall establish a management information system for the prevention and response workforces that shall provide, at a minimum, the following standardized information on persons serving in those workforces:

(1) Qualifications, assignment history, and tenure in assignments.

(2) Promotion rates for military and civilian personnel.

(e) ASSESSMENT OF ADEQUACY OF MARINE SAFETY WORKFORCE.—
§ 58. Centers of expertise for Coast Guard prevention and response

(a) Establishment.—The Commandant of the Coast Guard may establish and operate one or more centers of expertise for prevention and response missions of the Coast Guard (in this section referred to as a “center”).

(b) Missions.—Each center shall—

(1) promote and facilitate education, training, and research;

(2) develop a repository of information on its missions and specialties; and

(3) perform any other missions as the Commandant may specify.

(c) Joint Operation With Educational Institutions Authorized.—The Commandant may enter into an agreement with an appropriate official of an educational institution to—

(1) provide for joint operation of a center; and

(2) provide necessary administrative services for a center, including administration and allocation of funds.

(d) Acceptance of Donations.—

(1) Except as provided in paragraph (2), the Commandant may accept, on behalf of a center, donations to be used to defray the costs of the center or to enhance the operation of the center. Those donations may be accepted from any State or local government, any foreign government, any foundation or other charitable organization (including any that is organized or operates under the laws of a foreign country), or any individual.

(2) The Commandant may not accept a donation under paragraph (1) if the acceptance of the donation would compromise or appear to compromise—

(A) the ability of the Coast Guard or the department in which the Coast Guard is operating, any employee of the Coast Guard or the department, or any member of the Armed Forces to carry out any responsibility or duty in a fair and objective manner; or

(B) the integrity of any program of the Coast Guard, the department in which the Coast Guard is operating, or of any person involved in such a program.

(3) The Commandant shall prescribe written guidance setting forth the criteria to be used in determining whether or not the acceptance of a donation from a foreign source would have a result described in paragraph (2).


§ 59. Marine industry training program

(a) In General.—The Commandant shall, by policy, establish a program under which an officer, member, or employee of the Coast Guard may be assigned to a private entity to further the institutional interests of the Coast Guard with regard to marine safety, including for the purpose of providing training to an officer, member, or employee. Policies to carry out the program—

(1) with regard to an employee of the Coast Guard, shall include provisions, consistent with sections 3702 through 3704 of title 5, as to matters concerning—

(A) the duration and termination of assignments;

(B) reimbursements; and

(C) status, entitlements, benefits, and obligations of program participants; and

(2) shall require the Commandant, before approving the assignment of an officer, member, or employee of the Coast Guard to a private entity, to determine that the assignment is an effective use of the Coast Guard’s funds, taking into account the best interests of the Coast Guard and the costs and benefits of alternative methods of achieving the same results and objectives.

(b) Annual Report.—Not later than the date of the submission each year of the President’s budget request under section 1105 of title 31, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that describes—

(1) the number of officers, members, and employees of the Coast Guard assigned to private entities under this section; and

(2) the specific benefit that accrues to the Coast Guard for each assignment.

CHAPTER 5—FUNCTIONS AND POWERS

Sec. 81. Aids to navigation authorized.

82. Cooperation with Administrator of the Federal Aviation Administration.

83. Unauthorized aids to maritime navigation; penalty.

84. Interference with aids to navigation; penalty.

85. Aids to maritime navigation.

86. Marking of obstructions.

87. Repealed.

88. Saving life and property.

89. Law enforcement.

90. Ocean stations.

91. Safety of naval vessels.

92. Secretary; general powers.

93. Commandant; general powers.

94. Oceanographic research.

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

96. Commandant; general powers.

97. Procurement of buoy chain.

98. National Coast Guard Museum.

99. Enforcement authority.

100. Enforcement of coastwise trade laws.

101. Appeals and waivers.

AMENDMENTS


Changes were made in phraseology. 81st Congress, House Report No. 507.

HISTORICAL AND REVISION NOTES


2012—Pub. L. 112–240 substituted “Aids to air navigation required to serve the needs of the armed forces of the United States peculiar to warfare and primarily of military concern as determined by the Secretary of Defense or the Secretary of any department within the Department of Defense and as required by any of those officials; and (3) electronic aids to navigation systems (a) required to serve the needs of the armed forces of the United States peculiar to warfare and primarily of military concern as determined by the Secretary of Defense or any department within the Department of Defense; or (b) required to serve the needs of the maritime commerce of the United States; or (c) required to serve the needs of the air commerce of the United States as requested by the Administrator of the Federal Aviation Administration. These aids to navigation other than electronic aids to navigation systems shall be established and operated only within the United States, the waters above the Continental Shelf, the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and beyond the territorial jurisdiction of the United States at places where naval or military bases of the United States are or may be located. The Coast Guard may establish, maintain, and operate aids to maritime navigation under paragraph (1) of this section by contract with any person, public body, or instrumentality.

Aids to navigation authorized.

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

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

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

EFFECTIVE DATE OF 1958 AMENDMENT

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

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

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

AIDS TO NAVIGATION REPORT

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

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

Pub. L. 97–322, title I, § 105(b), Oct. 15, 1982, 96 Stat. 1852, provided that: "Not later than one year after the date of enactment of this title [Oct. 15, 1982], the Commandant of the Coast Guard shall submit to Congress a report on the use of the Coast Guard’s aids to navigation system. The report shall include an analysis of the respective use of the aids to navigation system by commercial interests, members of the general public for personal recreation, Federal and State government for public safety, defense, and other similar purposes. To the extent practicable within the time allowed, the report shall include information regarding degree of use of the various portions of the system."

HISTORICAL AND REVISION NOTES

1949 ACT


1982 ACT

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

AMENDMENTS

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


exigencies may require, channels and harbors in accordance with the reasonable demands of commerce; and to use for that purpose such vessels subject to its control and jurisdiction which may be made available to it under paragraph 2 hereof as are necessary and are reasonably suitable for such operations.

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

§ 82. Cooperation with Administrator of the Federal Aviation Administration

The Coast Guard, in establishing, maintaining, or operating any aids to air navigation herein provided, shall solicit the cooperation of the Administrator of the Federal Aviation Administration to the end that the personnel and facilities of the Federal Aviation Administration will be utilized to the fullest possible advantage. Before locating and operating any such aid on military or naval bases or regions, the consent of the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, as the case may be, shall first be obtained. No such aid shall be located within the territorial jurisdiction of any foreign country without the consent of the government thereof.

Nothing in this title shall be deemed to limit the authority granted by subchapter II of chapter 22 of title 10 or part A of subtitle VII of title 49.
§ 83. Unauthorized aids to maritime navigation; penalty

No person, or public body, or instrumentality, excluding the armed forces, shall establish, erect, or maintain any aid to maritime navigation in or adjacent to the waters subject to the jurisdiction of the United States, its territories or possessions, or the Trust Territory of the Pacific Islands, or on the high seas if that person, or public body, or instrumentality is subject to the jurisdiction of the United States, without first obtaining authority to do so from the Coast Guard in accordance with applicable regulations.

Whoever violates the provisions of this section shall be guilty of a misdemeanor and shall be fined not more than $100 for each offense. Each day during which such violation continues shall be considered as a new offense.

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

History and Revision Notes


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

§ 85. Aids to maritime navigation; penalty

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


History and Revision Notes


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

Amendments

1974—Pub. L. 93–283 struck out “on fixed structures” after “maritime navigation” in section catchline and in text substituted “fixed and floating structures in or over waters subject to the jurisdiction of the United States and in the high seas for structures owned or operated by persons subject to the jurisdiction of the United States, its territories or possessions, or the Trust Territory of the Pacific Islands, or on the high seas if that person, or public body, or instrumentality is subject to the jurisdiction of the United States, without first obtaining authority” for “maritime navigation without first obtaining authority”.

Termination of Trust Territory of the Pacific Islands

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

§ 84. Interference with aids to navigation; penalty

It shall be unlawful for any person, or public body, or instrumentality, excluding the armed forces, to remove, change the location of, obstruct, willfully damage, make fast to, or interfere with any aid to navigation established, installed, operated, or maintained by the Coast Guard pursuant to section 81 of this title, or with any aid to navigation lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of this title, or to anchor any vessel in any of the navigable waters of the United States so as to obstruct or interfere with range lights maintained therein. Whoever violates the provisions of this section shall be considered as a new offense.

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

History and Revision Notes


Changes were made in phraseology. 81st Congress, House Report No. 557.
United States” for “fixed structures in or over navigable waters of the United States”.

1965—Act June 4, 1965, amended section generally, vesting in Secretary rule-making authority, for the protection of maritime navigation, relative to the establishment, maintenance, and operation of lights and other signals on fixed structures in or over navigable waters of the United States, and excluding agencies of United States from its provisions.

§ 86. Marking of obstructions

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


HISTORICAL AND REVISION NOTES


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

AMENDMENTS

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

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


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

§ 88. Saving life and property

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

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

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

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

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

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

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

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

(1) guilty of a class D felony;

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

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

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


HISTORICAL AND REVISION NOTES


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

AMENDMENTS

HELICOPTER RESCUE SWIMMING PROGRAM

Pub. L. 98–557, § 9, Oct. 30, 1984, 98 Stat. 2682, required Secretary of department in which Coast Guard was operating to use such sums as necessary, from amounts appropriated for operation and maintenance of Coast Guard, to establish helicopter rescue swimming program for purpose of training selected Coast Guard personnel in rescue swimming skills, prior to repeal by Pub. L. 104–324, title II, § 213(b), Oct. 19, 1996, 110 Stat. 3915.

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

Pub. L. 97–322, title I, § 113, Oct. 15, 1982, 96 Stat. 1585, as amended by Pub. L. 100–448, § 30(b), Sept. 29, 1988, 102 Stat. 1850, provided that: “The Commandant of the Coast Guard shall review Coast Guard policies and procedures for towing and salvage of disabled vessels in order to further minimize the possibility of Coast Guard competition or interference (other than by the Coast Guard Auxiliary) with private towing activities or other commercial enterprise.”

§ 89. Law enforcement

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

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

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

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

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


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

1970—Subsec. (a). Pub. L. 91–276 substituted “on and under the high seas and on and under the waters” for “on the high seas and on waters” in introductory text.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for transfer of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 522 of Title 6.

MODERNIZATION OF NATIONAL DISTRESS AND RESPONSE SYSTEM


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

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

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

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

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

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

“(5) specify steps taken by the Secretary to fill existing gaps in coverage, including obtaining direction-finding equipment, digital recording system, staff, or other resources to fill gaps in coverage, and describe the results of such efforts;

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

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

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

“(9) identify actions taken to-date to implement the recommendations of the National Transportation Safety Board in its Report No. MAR-99-01.”
§ 91. Safety of naval vessels

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

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

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

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

§ 90. Ocean stations

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

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

Historical and Revision Notes

§ 92. Secretary; general powers

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

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

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

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

(d) design or cause to be designed, cause to be constructed, accept as gift, or otherwise acquire vessels, and subject to applicable regulations under subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 dispose of them;

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


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

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

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

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

§ 92. Secretary; general powers

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

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

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


Subsection (e) is new. It is derived from title 14, U.S.C., 1946 ed., §96 and on title 33, U.S.C., 1946 ed., §§729, 730, 731 (Mar. 3, 1875, ch. 130, §1, 18 Stat. 372; Mar. 4, 1909, ch. 299, 35 Stat. 972; June 17, 1910, ch. 301, §§9, 36 Stat. 538; Mar. 14, 1913, ch. 168, 37 Stat. 1016). This subsection broadens the power of the Secretary to receive as a gift or purchase sites, to include the acquisition of land by any means provided it is for the purpose of executing duties and functions of the Coast Guard.

Subsection (f) is based in part on title 14, U.S.C., 1946 ed., §732 (Aug. 28, 1916, ch. 414, §2, 39 Stat. 538) and grants authority to the Secretary to exchange interests in land as payment or part payment for other interests in land in the purpose of executing the duties and functions of the Coast Guard; this authority, on the basis of past experience, will prove advantageous to the Government.

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

Subsection (i) is based in part on title 14, U.S.C., 1946 ed., §732 (Aug. 28, 1916, ch. 414, §2, 39 Stat. 538; July 11, 1941, ch. 290, §1, 55 Stat. 584) and grants authority to the Secretary to exchange interests in land as payment or part payment for other interests in land in the purpose of executing the duties and functions of the Coast Guard; this authority, on the basis of past experience, will prove advantageous to the Government.

Changes were made in phraseology. 61st Congress, House Report No. 557.

AMENDMENTS


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


struck out requirement that net monies received from the disposition of vessels be covered into the Treasury. Subsec. (e). Act Oct. 31, 1951, §132, repealed subsec. (e) which empowered the Secretary to exchange vessels and parts thereof in part payment for new vessels.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 4.

ARCTIC MARINE SHIPPING ASSESSMENT IMPLEMENTATION


“(a) PURPOSE.—The purpose of this section is to ensure safe and secure maritime shipping in the Arctic including the availability of aids to navigation, vessel escorts, spill response capability, and maritime search and rescue in the Arctic.

“(b) INTERNATIONAL MARITIME ORGANIZATION AGREEMENTS.—To carry out the purpose of this section, the Secretary of the department in which the Coast Guard is operating is encouraged to enter into negotiations through the International Maritime Organization to conclude and execute agreements to promote coordinated action among the United States, Russia, Canada, Iceland, Norway, and Denmark and other seafaring and Arctic nations to ensure, in the Arctic—

“(1) placement and maintenance of aids to navigation;

“(2) appropriate marine safety, tug, and salvage capabilities;

“(3) oil spill prevention and response capability;

“(4) maritime domain awareness, including long-range vessel tracking; and

“(5) search and rescue.

“(c) COORDINATION BY COMMITTEE ON THE MARITIME TRANSPORTATION SYSTEM.—The Committee on the Maritime Transportation System established under a directive of the President in the Ocean Action Plan, issued December 17, 2004, shall coordinate the establishment of domestic transportation policies in the Arctic necessary to carry out the purpose of this section.

“(d) AGREEMENTS AND CONTRACTS.—The Secretary of the department in which the Coast Guard is operating may, subject to the availability of appropriations, enter into cooperative agreements, contracts, or other agreements with, or make grants to individuals and governments to carry out the purpose of this section or any agreements established under subsection (b).

“(e) ICEBREAKING.—The Secretary of the department in which the Coast Guard is operating shall promote safe maritime navigation by means of icebreaking where necessary, feasible, and effective to carry out the purposes of this section.

“(f) INDEPENDENT ICEBREAKER ANALYSES.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act (Oct. 15, 2010), the Secretary of the department in which the Coast Guard is operating shall require a nongovernmental, independent third party (other than the National Academy of Sciences) that has extensive experience in the analysis of military procurements, to—

“(A) conduct a comparative cost-benefit analysis, taking into account future Coast Guard budget projections (which assume Coast Guard budget growth of no more than inflation) and other recapitalization needs, of—

“(i) rebuilding, renovating, or improving the existing fleet of polar icebreakers for operation by the Coast Guard;

“(ii) constructing new polar icebreakers for operation by the Coast Guard;

“(iii) construction of new polar icebreakers by the National Science Foundation for operation by the Foundation;

“(iv) rebuilding, renovating, or improving the existing fleet of polar icebreakers by the National Science Foundation for operation by the Foundation; and

“(v) any combination of the activities described in clause (i), (ii), (iii), (iv) to carry out the missions of the Coast Guard and the National Science Foundation; and

“(B) conduct a comprehensive analysis of the impact on all Coast Guard activities, including operations, maintenance, procurements, and end strength, of the acquisition of polar icebreakers described in subparagraph (A) by the Coast Guard or the National Science Foundation assuming that total Coast Guard funding will not increase more than the annual rate of inflation.

“(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report containing the results of the analyses required under paragraph (1), together with recommendations the Commandant considers appropriate under section 93(a)(24) of title 14, United States Code, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(g) HIGH-LATITUDE STUDY.—Not later than 90 days after the date of enactment of this Act (Oct. 15, 2010) or the date of completion of the ongoing High-Latitude Study to assess polar icebreaking mission requirements for all Coast Guard missions including search and rescue, marine pollution response and prevention, fisheries enforcement, and maritime commerce, whichever occurs later, the Commandant of the Coast Guard shall submit a report containing the results of the study, together with recommendations the Commandant considers appropriate under section 93(a)(24) of title 14, United States Code, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(h) ARCTIC DEFINITION.—In this section the term ‘Arctic’ has the same meaning as in section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111).”

CONVEYANCE OF COAST GUARD VESSELS FOR PUBLIC PURPOSES


“(a) IN GENERAL.—Whenever the transfer of ownership of a Coast Guard vessel or aircraft to an eligible entity for use for educational, cultural, historical, charitable, recreational, or other public purposes is authorized under law or declared excess by the Commandant, the Coast Guard shall transfer the vessel or aircraft to the General Services Administration for conveyance to the eligible entity.

“(b) CONDITIONS OF CONVEYANCE.—The General Services Administration may not convey a vessel or aircraft to an eligible entity as authorized by law unless the eligible entity agrees—

“(1) to provide the documentation needed by the General Services Administration to process a request for aircraft or vessels under section 102.37.225 of title 41, Code of Federal Regulations;

“(2) to comply with the special terms, conditions, and restrictions imposed on aircraft and vessels under section 102.37.460 of such title;

“(3) to make the vessel available to the United States Government if it is needed for use by the Commandant of the Coast Guard in time of war or a national emergency; and

“(4) to hold the United States Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, that occurs after conveyance of the vessel,
except for claims arising from use of the vessel by the United States Government under paragraph (3).

“(c) OTHER OBIGATIONS UNAFFECTED.—Nothing in this section amends or affects any obligation of the Coast Guard or any other person under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) or any other law regarding use or disposal of hazardous materials including asbestos and polychlorinated biphenyls.

“(d) ELIGIBLE ENTITY DEFINED.—In this section, the term eligible entity means a State or local government, nonprofit corporation, educational agency, community development organization, or other entity that agrees to comply with the conditions established under this section.

IMPLEMENTATION OF INTERNATIONAL AGREEMENTS

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

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

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

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

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

VOLUNTARY MEASURES FOR REDUCING POLLUTION FROM RECREATIONAL BOATS

Pub. L. 106–244, title VIII, §802, July 11, 2006, 120 Stat. 216, provided that: "In consultation with appropriate Federal, State, and local government agencies, the Secretary of the department in which the Coast Guard is operating shall undertake outreach programs for educating the owners and operators of boats using two-stroke engines about the pollution associated with such engines and support voluntary programs that reduce such pollution and encourage the early replacement of older two-stroke engines."

GREAT LAKES LIGHTHOUSES


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

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

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

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

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

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

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

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

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

VHF COMMUNICATIONS SERVICES

Pub. L. 107–286, title IV, §406, Nov. 25, 2002, 116 Stat. 2116, provided that: "(a) The Secretary of the department in which the Coast Guard is operating may authorize a person providing commercial VHF communications services to place commercial VHF communications equipment on real property under the administrative control of the Coast Guard (including towers) subject to any terms agreed to by the parties. The Secretary and that commercial VHF communications service provider also may enter into an agreement providing for VHF communications services to the Coast Guard (including digital selective calling and radio direction finding services) at a discounted rate or price based on providing such access to real property under the administrative control of the Coast Guard."

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

"(c) Nothing in this section shall affect the rights or obligations of the United States under section 704(c) of the Telecommunications Act of 1996 (Pub. L. 104–104) (47 U.S.C. 332 note) with respect to the availability of property or under section 339(d) of the Communications Act of 1934 (47 U.S.C. 357(d)) with respect to charges for transmission of distress messages."

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

Pub. L. 104–324, title XI, §1127, Oct. 19, 1996, 110 Stat. 3983, provided that: "(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act [see Tables for classification] should be American-made.

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

COAST GUARD VESSEL DESIGN

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

AUTHORIZATION OF JUNIOR RESERVE OFFICERS TRAINING PROGRAM PILOT PROGRAM

Pub. L. 101–225, title II, §204, Dec. 12, 1989, 103 Stat. 1911, provided that: "(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating (hereinafter in this section referred to as the ‘Secretary’) may carry out a pilot program to establish and maintain a junior reserve officers training program in cooperation with the Dade County Public School System of Dade Coun-
ty, Florida, as part of the Maritime and Science Technology Academy established by that school system (hereinafter in this section referred to as the ‘Academy’).

“(b) Program Requirements.—A pilot program carried out by the Secretary under this section—

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

“(2) shall provide to the Academy—

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

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

“(c) Provision of Additional Support.—To carry out a pilot program under this section, the Secretary may provide to the Academy—

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

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

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

“(d) Employment of Retired Coast Guard Personnel.—

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

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

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

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

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

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

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

Lifesaving Equipment on Passenger Ferries
Pub. L. 98–557, § 10, Oct. 30, 1984, 98 Stat. 2683, provided that: “The Secretary of the department in which the Coast Guard is operating shall proceed vigorously with efforts to develop improved lifesaving equipment for use on passenger ferries.”

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

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


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

§ 93. Commandant; general powers

(a) For the purpose of executing the duties and functions of the Coast Guard the Commandant may:
§ 93

Coast Guard, the monies received from any not exceeding five years, such real property services), to be deposited in the Treasury; incurred (exclusive of governmental personal such rental or lease, less amount of expenses under the control of the Coast Guard as may such voluntary services as may be offered to emergency in order to save life or protect property, Guard; and repair of any property used by the Coast Guard; private contractors, and for the maintenance not normally or economically obtainable from entitlements that—
(1) maintain water, land, and air patrols, and ice-breaking facilities;
(2) establish and prescribe the purpose of, change the location of, consolidate, discontinue, re-establish, maintain, operate, and repair Coast Guard shore establishments;
(3) assign vessels, aircraft, vehicles, aids to navigation, equipment, appliances, and supplies to Coast Guard districts and shore establishments, and transfer any of the foregoing from one district or shore establishment to another;
(4) conduct experiments, investigate, or cause to be investigated, plans, devices, and inventions relating to the performance of any Coast Guard function, including research, development, test, or evaluation related to intelligence systems and capabilities, and cooperate and coordinate such activities with other Government agencies and with private agencies;
(5) conduct any investigations or studies that may be of assistance to the Coast Guard in the performance of any of its powers, duties, or functions;
(6) collect, publish, and distribute information concerning Coast Guard operations;
(7) conduct or make available to personnel of the Coast Guard such specialized training and courses of instruction, including correspondence courses, as may be necessary or desirable for the good of the service;
(8) design or cause to be designed, cause to be constructed, accept as gift, or otherwise acquire patrol boats and other small craft, equip, operate, maintain, supply, and repair such patrol boats, other small craft, aircraft, and vehicles, and subject to applicable regulations under subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 dispose of them;
(9) acquire, accept as gift, maintain, repair, and discontinue aids to navigation, appliances, equipment, and supplies;
(10) equip, operate, maintain, supply, and repair Coast Guard districts and shore establishments;
(11) establish, equip, operate, and maintain shops, depots, and yards for the manufacture and construction of aids to navigation, equipment, apparatus, vessels, vehicles, and aircraft not normally or economically obtainable from private contractors, and for the maintenance and repair of any property used by the Coast Guard;
(12) accept and utilize, in times of emergency in order to save life or protect property, such voluntary services as may be offered to the Coast Guard;
(13) rent or lease, under such terms and conditions as are deemed advisable, for a period not exceeding five years, such real property under the control of the Coast Guard as may not be required for immediate use by the Coast Guard, the monies received from any such rental or lease, less amount of expenses incurred (exclusive of governmental personal services), to be deposited in the Treasury;
(14) grant, under such terms and conditions as are deemed advisable, permits, licenses, easements, and rights-of-way over, across, in, and upon lands under the control of the Coast Guard when in the public interest and without substantially injuring the interests of the United States in the property thereby affected;
(15) establish, install, abandon, re-establish, reroute, operate, maintain, repair, purchase, or lease such telephone and telegraph lines and cables, together with all facilities, apparatus, equipment, structures, appurtenances, accessories, and supplies used or useful in connection with the installation, operation, maintenance, or repair of such lines and cables, including telephones in residences leased or owned by the Government of the United States when appropriate to assure efficient response to extraordinary operational contingencies of a limited duration, and acquire such real property rights of way, easements, or attachment privileges as may be required for the installation, operation, and maintenance of such lines, cables, and equipment;
(16) establish, install, abandon, re-establish, change the location of, operate, maintain, and repair radio transmitting and receiving stations;
(17) provide medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities;
(18) accept, under terms and conditions the Commandant establishes, the service of an individual ordered to perform community service under the order of a Federal, State, or municipal court;
(19) notwithstanding any other law, enter into cooperative agreements with States, local governments, non-governmental organizations, and individuals, to accept and utilize voluntary services for the maintenance and improvement of natural and historic resources, or to benefit natural and historic research on, Coast Guard facilities, subject to the requirement that—
(A) the cooperative agreements shall each provide for the parties to contribute funds or services on a matching basis to defray the costs of such programs, projects, and activities under the agreement; and
(B) a person providing voluntary services under this subsection shall not be considered a Federal employee except for purposes of chapter 81 of title 5, United States Code, with respect to compensation for work-related injuries, and chapter 171 of title 28, United States Code, with respect to tort claims;
(20) enter into cooperative agreements with other Government agencies and the National Academy of Sciences;
(21) require that any member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment to any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) request that all information contained in the National Driver Register pertaining to the individual, as described in section 30304(a) of title 49, be made available to the Commandant under section 30305(a) of title 49, may receive that information, and upon re-
cept, shall make the information available to the individual;
(22) provide for the honorary recognition of individuals and organizations that significantly contribute to Coast Guard programs, missions, or operations, including State and local governments and commercial and non-profit organizations, and pay for, using any appropriations or funds available to the Coast Guard, plaques, medals, trophies, badges, and similar items to acknowledge such contribution (including reasonable expenses of ceremony and presentation);
(23) rent or lease, under such terms and conditions as are considered by the Secretary to be advisable, commercial vehicles to transport the next of kin of eligible retired Coast Guard military personnel to attend funeral services of the service member at a national cemetery; and
(24) after informing the Secretary, make such recommendations to the Congress relating to the Coast Guard as the Commandant considers appropriate.

(b)(1) Notwithstanding subsection (a)(14), a lease described in paragraph (2) of this subsection may be for a term of up to 20 years.
(2) A lease referred to in paragraph (1) is a lease—
(A) to the United States Coast Guard Academy Alumni Association for the construction of an Alumni Center on the grounds of the United States Coast Guard Academy; or
(B) to an entity with which the Commandant has a cooperative agreement under section 4(e) of the Ports and Waterways Safety Act, and for which a term longer than 5 years is necessary to carry out the agreement.

(c) MARINE SAFETY RESPONSIBILITIES.—In exercising the Commandant’s duties and responsibilities with regard to marine safety, the individual with the highest rank who meets the experience qualifications set forth in section 50(a)(3) shall serve as the principal advisor to the Commandant regarding—
(1) the operation, regulation, inspection, identification, manning, and measurement of vessels, including plan approval and the application of load lines;
(2) approval of materials, equipment, appliances, and associated equipment;
(3) the reporting and investigation of marine casualties and accidents;
(4) the licensing, certification, documentation, protection and relief of merchant seamen;
(5) suspension and revocation of licenses and certificates;
(6) enforcement of manning requirements, citizenship requirements, control of log books; (7) documentation and numbering of vessels;
(8) State boating safety programs;
(9) commercial instruments and maritime liens;
(10) the administration of bridge safety;
(11) administration of the navigation rules;
(12) the prevention of pollution from vessels;
(13) ports and waterways safety;
(14) waterways management; including regulation for regattas and marine parades;
(15) aids to navigation; and
(16) other duties and powers of the Secretary related to marine safety and stewardship.

(d) OTHER AUTHORITY NOT AFFECTED.—Nothing in subsection (c) affects—
(1) the authority of Coast Guard officers and members to enforce marine safety regulations using authority under section 89 of this title; or
(2) the exercise of authority under section 91 of this title and the provisions of law codified at sections 191 through 195 of title 50 on the date of enactment of this paragraph.


HISTORICAL AND REVISION NOTES

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

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

Subsection (b) is derived from R.S. 4242 and title 14, U.S.C., 1946 ed., §§29, 93, 94, 95, 97, 98a (R.S. 4245, 4249; May 4, 1882, ch. 117, §§4, 6, 11, 22 Stat. 56; Aug. 29, 1916, ch. 417, 39 Stat. 601; Aug. 6, 1947, ch. 502, 61 Stat. 786; June 6, 1940, ch. 257, §4, 54 Stat. 247), and specifically grants to the Commandant authority in regard to the establishment, discontinuance, and change of Coast Guard shore establishments other than Coast Guard districts. This power must exist inherently in order for the Service to function efficiently.

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

Subsection (d) is based on title 14, U.S.C., 1946 ed., §91 (June 18, 1878, ch. 265, §7, 20 Stat. 164; June 10, 1921, ch. 18, §304, 42 Stat. 24; July 3, 1926, ch. 742, §9, 44 Stat. 817). Said section has been divided. The part dealing with investigation of plans and inventions is covered in this subsection in broader terms, and the other parts are covered in general terms in section 632 of this title.
Subsection (e) is based on title 14, U.S.C., 1946 ed., §111 (June 18, 1878, ch. 265, §9, 20 Stat. 184). This section has been rewritten to broaden the authority to include any investigation or study that may be of assistance to the Coast Guard, the limitation as to investigation of shipwrecks having been eliminated.

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

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

Subsection (h) is based in part on title 14, U.S.C., 1946 ed., §§89, 108, 109, (R.S. 2748; June 20, 1874, ch. 344, §9, 18 Stat. 127; June 18, 1878, ch. 265, §3, 20 Stat. 183), and is intended to complement the authority granted to the Secretary in sec. 92(d) of this title granting similar authority to the Commandant as to smaller craft.

Subsection (i) is based in part on title 14, U.S.C., §§108, 109, and on title 33, U.S.C., §§108, 109, (R.S. 2748; June 20, 1874, ch. 344, §9, 18 Stat. 127; June 18, 1878, ch. 265, §3, 20 Stat. 183; Mar. 4, 1913, ch. 168, 37 Stat. 10183, and §§108, 109, and on title 33, U.S.C., 1946 ed., §752 (June 20, 1874, ch. 344, §9, 18 Stat. 127), and is intended to provide the Commandant power to the Commandant to operate and maintain shore establishments; previously such authority has been inferred from statutes providing for the establishment of shore stations; again such authority is inherent to the functioning of any Service, and this section will provide no greater authority than has been exercised in the past.

Subsection (k) is based on title 14, U.S.C., 1946 ed., §31b (June 6, 1941, ch. 177, 55 Stat. 247 (which was originally repealed by act June 30, 1949, ch. 288, title VI, §602(a)(2)(B), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, §6(a), (b), 64 Stat. 583)). The primary authority is granted to the Commandant as well as to the Secretary inasmuch as such exchange seems to be an operational matter and the items which may be exchanged have been enlarged by the addition of aids to navigation, appliances, equipment, and supplies. The authority with respect to the acceptance of such equipment as a gift is new.

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

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

Subsection (m) is based on title 14, U.S.C., 1946 ed., §§1102, 1103 (June 20, 1874, ch. 344, §16, 18 Stat. 127; June 18, 1878, ch. 265, §10, 20 Stat. 185; July 3, 1926, ch. 742, §§4, 44, 45 Stat. 817). The power to accept volunteer services is enlarged to include all services offered in time of emergency, to save life or protect property, and the restrictive provisions relating to lifeboat stations only have been eliminated.

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

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

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

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

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

REFERENCES IN TEXT

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

The date of enactment of this paragraph, referred to in subsec. (d)(2), is the date of enactment of Pub. L. 111–261, which was approved Oct. 15, 2010.

AMENDMENTS

2011—Subsec. (a)(8). Pub. L. 111–350, which directed amendment of subsection (b) by substituting “division C (except sections 3502, 3503(b), 3569, 3606, 4710, and 4711) of subtitle I of title 41” for “title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 351 et seq.),” was executed by making the substitution in subsection (b)(2) to reflect the probable intent of Congress and the amendment by Pub. L. 108–293, §201. See 2004 Amendment note below.


Subsecs. (c), (d). Pub. L. 111–261 added subsecs. (c) and (d).

2006—Subsec. (a)(19). Pub. L. 109–211, §901(a), redesignated subpars. (1) and (2) as (A) and (B), respectively.


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

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


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

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

2004 Amendment note—
1951—Subsec. (h). Act Oct. 31, 1951, §2(10), inserted reference to applicable regulations of the Federal Property and Administrative Services Act of 1949, as amended, and struck out the requirement that net monies received from the disposition of patrol boats, etc., be covered into the Treasury.

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

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


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

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security.

1040, provided that: "The Commandant of the Coast Guard may consult with the Office of Naval Research and other Federal agencies with research and development programs that may provide innovative construction alternatives for the Integrated Deepwater System."

ICEBREAKING SERVICES


"(a) OPERATION AND MAINTENANCE PLAN.—Not later than 90 days after the date of enactment of this Act (July 11, 2006), the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan for the operation and maintenance of the Coast Guard polar icebreakers POLAR STAR, POLAR SEA, and HEALY.

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

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

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

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

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

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

FISHING VESSEL SAFETY TRAINING


"(a) IN GENERAL.—The Commandant of the Coast Guard may provide support, with or without reimburse-
§ 94. Oceanographic research

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


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

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

(A) To carry firearms.

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

(C) To make arrests without warrant for—

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

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

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

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

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


AMENDMENTS


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

Effective Date of 2002 Amendment

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

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

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


AMENDMENTS

2010—Pub. L. 111–281 substituted “in the United States or Guam” for “in a State of the United States” and inserted “or Guam” after “outside the United States”.

§ 97. Procurement of buoy chain

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

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

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

(b) The Coast Guard may procure buoy chain that is not manufactured in the United States if the Secretary determines that—
(1) the price of buoy chain manufactured in the United States is unreasonable; or
(2) emergency circumstances exist.

§98. National Coast Guard Museum

(a) Etablissement.—The Commandant may establish a National Coast Guard Museum, on lands which will be federally owned and administered by the Coast Guard, and are located in New London, Connecticut, at, or in close proximity to, the Coast Guard Academy.
(b) Limitation on expenditures.—(1) Except as provided in paragraph (2), the Secretary shall not expend any appropriated Federal funds for the engineering, design, or construction of any museum established under this section.
(2) The Secretary shall fund the operation and maintenance of the National Coast Guard Museum with nonappropriated and non-Federal funds to the maximum extent practicable. The priority use of Federal operation and maintenance funds should be to preserve and protect historic Coast Guard artifacts.
(c) Funding plan.—Before the date on which the Commandant establishes a museum under subsection (a), the Commandant shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan for constructing, operating, and maintaining such a museum, including—
(1) estimated planning, engineering, design, construction, operation, and maintenance costs;
(2) the extent to which appropriated, nonappropriated, and non-Federal funds will be used for such purposes, including the extent to which there is any shortfall in funding for engineering, design, or construction; and
(3) a certification by the Inspector General of the department in which the Coast Guard is operating that the estimates provided pursuant to paragraphs (1) and (2) are reasonable and realistic.
(d) Authority.—The Commandant may not establish a Coast Guard museum except as set forth in this section.

§99. Enforcement authority

Subject to guidelines approved by the Secretary, members of the Coast Guard, in the performance of official duties, may—
(1) carry a firearm; and
(2) while at a facility (as defined in section 70101 of title 46)—
(A) make an arrest without warrant for any offense against the United States committed in their presence; and
(B) seize property as otherwise provided by law.

§100. Enforcement of coastwise trade laws

Officers and members of the Coast Guard are authorized to enforce chapter 551 of title 46. The Secretary shall establish a program for these officers and members to enforce that chapter.

§101. Appeals and waivers

Except for the Commandant of the Coast Guard, any individual adjudicating an appeal or waiver of a decision regarding marine safety, including inspection or manning and threats to the environment, shall—
(1) be a qualified specialist with the training, experience, and qualifications in marine safety to effectively judge the facts and circumstances involved in the appeal and make a judgment regarding the merits of the appeal; or
(2) have a senior staff member who—
(A) meets the requirements of paragraph (1);
(B) actively advises the individual adjudicating the appeal; and
(C) concurs in writing on the decision on appeal.

AMENDMENTS
2010—Pub. L. 111–330 renumbered section 102 of this title as this section.

EFFECTIVE DATE OF 2010 AMENDMENT

CHAPTER 7—COOPERATION WITH OTHER AGENCIES
§ 141  TITLE 14—COAST GUARD

A
ttribute of a producing and servicing agency, is important not only because it greatly promotes the quantity and quality of the services performed, but because the concentration of these functions in one agency results in savings to the Government of man-power, funds, and equipment. In the belief that legislative recognition of and specific power to continue this needed cooperation are desirable, Chapter 7 of this title contains a group of sections on cooperation with designated agencies. This is not meant to be a complete listing of cooperating agencies, but rather the designation of the principal ones. In addition, the first section of the chapter deals with availability of Coast Guard personnel and facilities to other agencies and the availability of other agency personnel and facilities to the Coast Guard. 81st Congress, House Report No. 557.

AMENDMENTS


1996—Pub. L. 104–324, title IV, § 405(a)(2), (3), inserted “(including members of the Auxiliary and facilities governed under chapter 23)” after “personnel and facilities” and “The Commandant may prescribe conditions, including reimbursement, under which personnel and facilities may be provided under this subsection.” at end.

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

Pub. L. 95–61, § 707, July 1, 1979, 92 Stat. 260, which authorized Coast Guard to assist Department of Health, Education, and Welfare in providing medical emergency helicopter services to civilians, if assistance was provided in areas of regular Coast Guard unit assignment, did not interfere with Coast Guard mission, or increase required Coast Guard operating funds, and further providing that no individual (or his estate) operating within scope of his duties under this section’s program would be civilly liable for damage caused incident thereto, was repealed and reenacted as section 147a of this title by Pub. L. 97–295, §§ 2(b)(A), 6(b), Oct. 12, 1982, 96 Stat. 1301, 1314.

§ 142. State Department

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

(Aug. 4, 1949, ch. 393, 63 Stat. 565.)

HISTORICAL AND REVISION NOTES

Because of the numerous situations in which it is necessary for the Coast Guard to deal with foreign governments, particularly in the field of safety of life and property at sea, the Coast Guard and the State Department agree that a provision such as this is desirable. The international character of many Coast Guard functions makes it more and more necessary for the Service to be an initiating or participating agency in international collaboration. Examples of international meetings concerned with matters affecting the Coast Guard include those which dealt with the International Rules of the Road, international load lines, the International Code of Signals, safety at sea, and international telecommunications. It is highly desirable that there be a clear-cut legislative expression of Coast Guard cooperation with the State Department on proposed international conferences dealing with various phases of Coast Guard activities, such as aids to navigation, life-saving equipment, navigation and communication equipment other than radio communication, regulation of dangerous cargoes, international rules of the road, safety requirements and equipment of transoceanic aircraft and vessels, and safe Manning standards and efficiency of personnel employed on transoceanic aircraft and vessels. Provisions for similar relationship between the Civil Aeronautical Board and the State Department appear in the act of June 25, 1949, as amended, 52 Stat. 984 (title 49, U.S.C., 1946 ed., §§ 425(c), 602). 81st Congress, House Report No. 557.

AMENDMENTS

1996—Pub. L. 104–324, § 405(a), amended section catchline generally, substituting “Cooperation with other agencies, States, territories, and political subdivisions” for “General”. Subsec. (a). Pub. L. 104–324, § 405(a)(2), (3), inserted “(including members of the Auxiliary and facilities governed under chapter 23)” after “personnel and facilities” and “The Commandant may prescribe conditions, including reimbursement, under which personnel and facilities may be provided under this subsection.” at end.
§ 143. Treasury Department

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

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

HISTORICAL AND REVISION NOTES


This section will not repeal the sections cited above, but makes further provision that Coast Guard personnel when acting as officers of the customs shall, insofar as enforcing customs laws are concerned, be subject to regulations governing regular officers of the customs.


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

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

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

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


HISTORICAL AND REVISION NOTES

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


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

AMENDMENTS


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

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

§ 145. Navy Department

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

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

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

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

(4) detail personnel from the Chaplain Corps to provide services, pursuant to section 1789 of title 10, to the Coast Guard.

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

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

(d)(1) As part of the services provided by the Secretary of the Navy pursuant to subsection (a)(4), the Secretary may provide support services to chaplain-led programs to assist members of the Coast Guard on active duty and their dependents, and members of the reserve component in an active status and their dependents, in building and maintaining a strong family structure.

(2) In this subsection, the term "support services" include transportation, food, lodging, child care, supplies, fees, and training materials for members of the Coast Guard on active duty and their dependents, and members of the reserve component in an active status and their dependents, while participating in programs referred to in paragraph (1), including participation at retreats and conferences.

(3) In this subsection, the term "dependents" has the same meaning as defined in section 1072(2) of title 10.

§ 146 "United States Postal Service"

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


HISTORICAL AND REVISION NOTES

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

AMENDMENTS


§ 147 "Department of Commerce"

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


HISTORICAL AND REVISION NOTES

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

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

AMENDMENTS

1982—Pub. L. 97–295 substituted ‘‘Administration’’ for ‘‘Administration’’ after ‘‘Atmospheric’’.


§ 147a "Department of Health and Human Services"

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

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

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

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


### Historical and Revision Notes

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

**Similiar Provisions**

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

### § 148. Maritime instruction

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


**Historical and Revision Notes**


### Amendments


### § 149. Assistance to foreign governments and maritime authorities

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

(b) **Technical Assistance to Foreign Maritime Authorities.**—The Commandant, in coordination with the Secretary of State, may provide, in conjunction with regular Coast Guard operations, technical assistance (including law enforcement and maritime safety and security training) to foreign navies, coast guards, and other maritime authorities.

(c) **Grants to International Maritime Organizations.**—After consultation with the Secretary of State, the Commandant may make grants to, or enter into cooperative agreements, contracts, or other agreements with, international maritime organizations for the purpose of acquiring information or data about merchant vessel inspections, security, safety, environmental protection, classification, and port state or flag state law enforcement or oversight.

(d) **Authorized Activities.**—

1. The Commandant may use funds for—

   (A) the activities of traveling contact teams, including any transportation expense, translation services expense, or administrative expense that is related to such activities;

   (B) the activities of maritime authority liaison teams of foreign governments making reciprocal visits to Coast Guard units, including any transportation expense, translation services expense, or administrative expense that is related to such activities;

   (C) seminars and conferences involving members of maritime authorities of foreign governments;

   (D) distribution of publications pertinent to engagement with maritime authorities of foreign governments; and

   (E) personnel expenses for Coast Guard civilian and military personnel to the extent that those expenses relate to participation in an activity described in subparagraph (C) or (D).

2. An activity may not be conducted under this subsection with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.


**Historical and Revision Notes**

with the other armed forces for the purpose of detailing personnel for service with foreign governments.

It seems probable that the increased collaboration with foreign governments after the war and the vital nature of the Coast Guard's activities in relation to such collaboration will result in requests from time to time by foreign governments for assistance which the Coast Guard is in the best position to render. This section, which confers broad authority in the President to detail Coast Guard officers and enlisted men to assist foreign governments, is patterned after the act of Octo-


Amendments


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

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

Deligation of authority

Authority of President under this section as invoked by section 2 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48301, as amended, delegated to Secretary of Homeland Security by section 5 of Ex. Ord. No. 13223, set out as a note under section 12302 of Title 10, Armed Forces.

§150. Coast Guard officers as attachés to missions

Commissioned officers may, with the consent of the Secretary of State, be regularly and officially attached to the diplomatic missions of the United States in those nations with which the United States is extensively engaged in maritime commerce. Expenses for the maintenance of such Coast Guard attachés abroad, including office rental and pay of employees and allowances for living quarters, including heat, fuel, and light, may be defrayed by the Coast Guard. (Aug. 4, 1948, ch. 593, 63 Stat. 507.)

Historical and Revision Notes

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

This section authorizes the designation, with the consent of the State Department, of Coast Guard officers to be officially attached to diplomatic missions of the United States. Although Coast Guard advice on Coast Guard matters is always available to our diplomatic missions, in those locations where such advice and information are frequently sought, it is felt that the most effective utilization of Coast Guard services would be achieved by having Coast Guard officers attached to such missions. Provision for customs officers to be attached to diplomatic missions is contained in the act of March 4, 1923, as amended, 42 Stat. 1453 (title 19, U.S.C., 1946 ed., §46). Before the transfer in 1939 of the Foreign Agriculture Service to the State Department, representatives of the Bureau of Agricultural Ec-


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

(a) In General.—All orders or contracts for work or material, under authorization of law, placed with Government-owned establishments by the Coast Guard, shall be considered as obligations in the same manner as provided for similar orders or contracts placed with private contractors, and appropriations for such work or material shall remain available for payment therefore as in the case of orders or contracts placed with private contractors.

(b) Orders and Agreements for Industrial Activities.—Under this section, the Coast Guard industrial activities may accept orders from and enter into reimbursable agreements with establishments, agencies, and departments of the Department of Defense and the Department of Homeland Security. (Aug. 4, 1949, ch. 393, 63 Stat. 507; Pub. L. 111–281, title II, §202, Oct. 15, 2010, 124 Stat. 2909.)

Historical and Revision Notes


Amendments


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

The Coast Guard Exchange System, or a morale, welfare, and recreation system of the Coast Guard, may enter into a contract or other agreement with any element or instrumentality of the Coast Guard or with another Federal department, agency, or instrumentality to provide or obtain goods and services beneficial to the efficient management and operation of the Coast Guard Exchange System or that morale, welfare, and recreation system. (Added Pub. L. 108–293, title II, §202(a), Aug. 9, 2004, 118 Stat. 1031.)

§153. Appointment of judges

The Secretary may appoint civilian employees of the department in which the Coast Guard is operating as appellate military judges, available for assignment to the Coast Guard Court of Criminal Appeals as provided for in section 866(a) of title 10. (Added Pub. L. 111–281, title II, §201(a), Oct. 15, 2010, 124 Stat. 2909.)

Chapter 9—Coast Guard Academy

Sec. 181. Administration of Academy.

181a. Cadet applicants; preappointment travel to Academy.

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

(a) The number of cadets appointed annually to the Academy shall be as determined by the Secretary but the number appointed in any one year shall not exceed six hundred. Appointments to cadetships shall be made under regulations prescribed by the Secretary, who shall determine age limits, methods of selection of applicants, term of service as a cadet before graduation, and all other matters affecting such appointments. In the administration of this chapter, the Secretary shall take such action as may be necessary and appropriate to insure that female individuals shall be eligible for appointment and admission to the Coast Guard Academy, and that the relevant standards required for appointment, admission, training, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals. The Secretary may summarily dismiss from the Coast Guard any cadet who, during his cadetship, is found unsatisfactory in either studies or conduct, or may be deemed not adapted for a career in the Coast Guard. Cadets shall be subject to rules governing discipline prescribed by the Commandant.

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

1. Each cadet shall sign an agreement with the Secretary specifying (A) that upon graduation from the Coast Guard Academy, (B) that if an appointment described in paragraph 1(a) is not tendered or if the cadet is permitted to resign as a regular officer before the
completion of the commissioned service obligation of the cadet, the cadet—
(A) will accept an appointment as a commissioned officer in the Coast Guard Reserve; and
(B) will remain in that reserve component until completion of the commissioned service obligation of the cadet.

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

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

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

(d) The Secretary shall prescribe regulations to carry out this section. Those regulations shall include—
(1) standards for determining what constitutes, for the purpose of subsection (c), a breach of an agreement under subsection (b);
(2) procedures for determining whether such a breach has occurred; and
(3) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection (c).

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

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

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

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


HISTORICAL AND Revision Notes

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

Section 15a–1 of title 14, U.S.C., 1946 ed., has been divided. That part dealing with the appointment of cadets to the grade of ensign is placed in section 183 of this title, and the proviso is placed in this section.

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

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

Amendments
2010—Subsec. (a). Pub. L. 111–281 struck out “All such appointments shall be made without regard to the sex, race, color, or religious beliefs of an applicant.” before “In the administration”.


1988—Subsec. (a). Pub. L. 100–448, §13(1), struck out before last sentence “Previous to his admission each cadet shall obligate himself, in such manner as the Secretary shall prescribe, to complete the course of instruction at the Coast Guard Academy and to serve at least five years as an officer in the Coast Guard after graduation, if his service be so long required.”

Subsecs. (b) to (f). Pub. L. 100–448, §12(2), added subsec. (b) to (f) and struck out former subsec. (b) which read as follows: “A cadet who does not fulfill his obligation to complete the course of instruction or refuses to accept an appointment as an officer in the Coast Guard may be transferred by the Secretary to the Coast Guard Reserve in an appropriate enlisted grade or rating, and, notwithstanding section 651 of title 10, may be ordered to active duty to serve in that grade or rating for such period of time as the Secretary prescribes, but not for more than four years.”


1970—Pub. L. 91–278 substituted “six hundred” for “four hundred” in first sentence, required each cadet to obligate himself to complete his education at the Academy, designated existing provisions as subsections (a) and added subsection (b).


Effective Date of 1964 Amendment; Obligated Period of Service
Amendment by Pub. L. 88–276 effective only with respect to cadets and midshipmen appointed to the service academies and the Coast Guard Academy after Mar. 3, 1964, see section 5(c) of Pub. L. 88–276, set out as a note under section 3438 of Title 10, Armed Forces.

Savings Provision
For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or simi-
lar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(d) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 518 of Title 10, Armed Forces.

§ 183. Cadets; initial clothing allowance

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


HISTORICAL AND REVISION NOTES


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

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

AMENDMENTS

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

§ 184. Cadets; degree of bachelor of science

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

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

HISTORICAL AND REVISION NOTES


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

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

§ 185. Cadets; appointment as ensign

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

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

HISTORICAL AND REVISION NOTES


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

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

§ 186. Civilian teaching staff

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

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


HISTORICAL AND REVISION NOTES


The last sentence is new and is inserted to permit adjustment of the work load and leave schedule of Academy faculty members due to the peculiarity of the academic schedule.

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

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

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–546 substituted “Leaves of absence and hours of work for civilian faculty members shall be governed by regulations promulgated by the Secretary, without regard to the provisions of title 5,” for “Leaves of absence and hours of work for such personnel shall be governed by regulations issued by the Secretary of the Treasury, without regard to section 84, chapter 18, subchapter IV of chapter 21, sections 1112, 1113, and 1121–1125, and chapter 25, of title 5.”

1966—Subsec. (a). Pub. L. 89–444, §19(A), (B), substituted “faculty members” for “members of the teaching staff” and struck out provision that compensation of faculty members be fixed in accordance with the Classification Act of 1949, as amended, and designated existing provisions as so amended as subsec. (a).
§ 187. Permanent commissioned teaching staff; composition

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


HISTORICAL AND REVISION NOTES


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

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

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

Title 14, U.S.C., 1946 ed., §15b provides for five professors as heads or assistant heads of departments at the Academy. The Academic Board of the Academy and the Advisory Committee, after extensive study have recommended the change, as provided in this section, to three professors and twelve others on the permanent teaching staff, with designations to conform generally with the designations and grades of faculty members at other universities. The librarian is given faculty status because of the role of the library as the center of the modern university; this is in conformity with the practice of other higher educational institutions. It is believed that the increased number of permanent commissioned instructors is justified and desirable in view of the expansion of the Cadet Corps as the full effect of the return to a four-year course is felt. It is probable that, in the next few years, the number of cadets will approximate 450. The average number in the past two years has been about 380. This new set-up for the permanent commissioned teaching staff will permit desirable exchanges of professors with leading universities, and occasional sabbatical leaves in order to better the faculty generally. It is pointed out that this increase in permanent instructors does not increase the authorized number of officers in the Coast Guard, as they are all included in the limitation provided in section 42 of this title.

If a teaching position at the Academy is not provided for permanently it will require the assignment of an additional regular officer, so it is apparent that the changes proposed in this section do not increase the size of the Service, or the expense, but represent a long-range plan to better the Academy as a leading educational institution within the present, recognized, standards for a proper university faculty. The last sentence retains the command status of the professors as provided in existing law but enlarges the field in which they may perform duty, in order to make it possible to give them command status other than as the Academy, thus broadening their knowledge of the Service while still advantageously utilizing their services. 81st Congress, House Report No. 557.

AMENDMENTS

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

§ 188. Appointment of permanent commissioned teaching staff

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


HISTORICAL AND REVISION NOTES


Said section has been divided. That part of the first sentence which provides for the composition of the teaching staff is incorporated in section 187 of this title. The other provisions are incorporated in this section, except for the proviso which has been omitted as no longer needed.

This section incorporates the following changes because of the new plan for the permanent teaching staff: the President is authorized to appoint a candidate to any of the grades prescribed; and the probationary term, applicable unless the candidate has served in the Coast Guard as prescribed in this section, is increased from two to four years. Authorization for appointment in any grade is deemed desirable in order to permit the acquisition of outstanding instructors for the staff. It is believed that the former two-year period was too short to fully evaluate the capabilities of a temporary appointee. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Pub. L. 94–546 substituted “grade in which permanently appointed” for “rank in which permanently appointed”.

1960—Pub. L. 86–474 substituted “and instructors who are to serve” for “and commissioned instructors who are to serve”, and “civilian member of the teaching staff” for “civilian instructor”.
§ 189. Grade of permanent commissioned teaching staff

Professors shall be commissioned officers with grade not above captain, associate and assistant professors with grade not above commander, and instructors with grade not above lieutenant commander. All officers of the permanent commissioned teaching staff shall receive the pay and allowances of other commissioned officers of the same grade and length of service. When any such professor, associate professor, assistant professor, or instructor is appointed or commissioned with grade less than the highest grade permitted, he shall be promoted under regulations prescribed by the Secretary.


HISTORICAL AND REVISION NOTES


Said section has been divided. The last sentence is incorporated in section 187 of this title. The other provisions are incorporated in this section.

The limitation on grade of professors is raised from Commander to Captain, and other limitations as to grades within the new permanent commissioned teaching staff are established.

This section prescribes the relative ranks for the various grades in the permanent commissioned teaching staff, establishes the pay as heretofore, and provides for promotion as the Secretary shall prescribe. 81st Congress, House Report No. 557.

AMENDMENTS

1960—Pub. L. 86–474 substituted “and instructors with grade not above” for “and commissioned instructors with grade not above”, and “assistant professor, or instructor” for “or assistant professor”.

§ 190. Retirement of permanent commissioned teaching staff

Professors, associate professors, assistant professors, and instructors in the Coast Guard shall be subject to retirement or discharge from active service for any cause on the same basis as other commissioned officers of the Coast Guard, except that they shall not be required to retire from active service under the provisions of section 288 of this title, nor shall they be subject to the provisions of section 289 of this title, nor shall they be required to retire at age sixty-two but may be permitted to serve until age sixty-four at which time unless earlier retired or separated they shall be retired. The Secretary may retire any member of the permanent commissioned teaching staff who has completed thirty years’ active service. Service as a civilian member of the teaching staff at the Academy in addition to creditable service authorized by any other law in any of the military services rendered prior to an appointment as professor, associate professor, assistant professor, or instructor shall be credited in computing length of service as a professor, associate professor, assistant professor, or instructor for purposes of pay and allowances.


HISTORICAL AND REVISION NOTES


Changes in phraseology were made in order to adapt the section to the new structure of the permanent commissioned teaching staff. 81st Congress, House Report No. 557.

AMENDMENTS

1960—Pub. L. 86–474 substituted “member of civilian teaching staff” for “civilian instructor or civilian librarian”, and struck out “commissioned” in three places before “instructors” and “instructor”, respectively.

§ 191. Credit for service as member of civilian teaching staff

Service as a member of the civilian teaching staff at the Academy in addition to creditable services authorized by any other law in any of the military services rendered prior to an appointment as professor, associate professor, assistant professor, or instructor shall be credited in computing length of service as a professor, associate professor, assistant professor, or instructor for purposes of pay and allowances.


HISTORICAL AND REVISION NOTES


The provision prohibiting the retirement of a professor because of physical disability with less than 15 years’ service is changed to have application only during the temporary appointment of a professor. This section provides for the retirement of associate professors, assistant professors, and commissioned instructors in addition to professors. It is believed that the provision of existing law requiring 15 years’ service before becoming eligible for retirement, discriminated against this group of officers as no other group was discriminated against, and should be eliminated. It was changed so that these officers would be ineligible for retirement during their probationary term only. Changes were made in phraseology, 81st Congress, House Report No. 557.

AMENDMENTS

1970—Pub. L. 91–278 permitted permanent teachers to retire at sixty-four rather than at sixty-two unless earlier retired or separated.

1966—Pub. L. 89–444 authorized the Secretary to retire any member of the permanent commissioned teaching staff who has completed thirty years’ active service.

1963—Pub. L. 88–130 inserted “or discharge”, excepted staff members from retirement from active service under section 288 of this title, and from the provisions of section 289 of this title, and struck out “permanent” before “commissioned officers”.

1960—Pub. L. 86–474 substituted “civilian member of the teaching staff” for “civilian instructor or civilian librarian”, and struck out “commissioned” in three places before “instructors” and “instructor”, respectively.

§ 192. Assignment of personnel as instructors

The Commandant may assign any member to appropriate instruction duty at the Academy.

§ 193. Advisory Committee

The Secretary may appoint an Advisory Committee to the Academy, consisting of not more than seven persons of distinction in education and other fields relating to the purposes of the Academy, who shall serve without pay (or, in the case of a member of the Committee who is an officer or employee of the United States, who shall receive no additional pay on account of his service on the Committee). Members of the Advisory Committee shall be appointed for terms of not to exceed three years and may be reappointed. The Secretary shall, in June of each year, appoint one of the members to serve as chairman. The members so appointed shall visit the Academy at least once during the academic year on the call of the chairman and may convene once each year at Headquarters, at the call of the Commandant, for the purpose of examining the course of instruction and advising the Commandant relative thereto. Each member of the Committee shall be reimbursed from Coast Guard appropriations in conformity with the provisions of chapter 57 of title 5. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Advisory Committee. The Advisory Committee is authorized to give to the Secretary or the Commandant advice, and recommendations which the Secretary or the Commandant relative thereto. Each member of the Committee shall be reimbursed from Coast Guard appropriations in conformity with the provisions of chapter 57 of title 5.

AMENDMENTS

§ 194. Annual Board of Visitors

(a) In addition to the Advisory Committee, a Board of Visitors to the Academy is established to visit the Academy annually and to make recommendations on the operation of the Academy.

(b) The Board shall be composed of—

(1) two Senators designated by the Chairman of the Committee on Commerce, Science, and Transportation of the Senate;

(2) three Members of the House of Representatives designated by the Chairman of the Committee on Transportation and Infrastructure of the House of Representatives;

(3) one Senator designated by the President of the Senate;

(4) two Members of the House of Representatives designated by the Speaker of the House of Representatives; and

(5) the Chairman of the Committee on Commerce, Science, and Transportation of the Senate and the Chairman of the Committee on Transportation and Infrastructure of the House of Representatives, as ex officio Members.

(c) When a Member is unable to attend the annual meeting another Member may be designated as provided under subsection (b).

(d) When an ex officio Member is unable to attend the annual meeting that Member may designate another Member.

(e) Members of the Board shall be designated in the First Session and serve for the duration of the Congress.

(f) The Board shall visit the Academy annually on the date chosen by the Secretary. Each Member of the Board shall be reimbursed, to the extent permitted by law, by the Coast Guard for actual expenses incurred while engaged in duties as a Member of the Board.

AMENDMENTS
1982—Pub. L. 97–222 inserted parenthetical provision respecting service of an officer or employee of the United States as a member of the Committee without receipt of additional pay and inserted provisions for publication in the Federal Register of notice for solicitation of nominations for membership on the Advisory Committee and for disclosures to Congress.
1979—Pub. L. 94–546 substituted “chairman” for “Chairman” in fourth sentence and “Each member of the Committee shall be reimbursed from Coast Guard appropriations in conformity with the provisions of chapter 57 of title 5,” for “Each member of the Committee shall be reimbursed from Coast Guard appropriations in conformity with section 73b–1 of Title 5, or such actual expenses as permitted by section 73b–2 of Title 5 shall be defrayed by the Coast Guard”.

HISTORICAL AND REVISION NOTES

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


Said section dealing with the Advisory Committee is changed to increase the number of persons thereon to 7, the source from which appointments could be made is broadened to include other than educators, the term of appointment is fixed as 3 years, and provision is made for the appointment of the chairman by the Secretary.

This section changes existing law as follows: the field from which appointment may be made is broadened, the limit of membership is increased from five to seven, a provision for appointment of a chairman by the Secretary is added, and the term of service is established as three years. It is believed that the membership of not to exceed seven will provide greater flexibility in view of the new three year term of service, and will permit appointment of a committee with wider interests.

The fact that no term of service has been provided for heretofore has been a source of confusion and difficulty and some term should be specified. The existing law provides for appointment from the field of education; this is enlarged to include other fields relating to purposes of the Academy, in order, primarily, to permit selection from shipping, business, and industry. No provision has been made for selection of a chairman heretofore, and this has caused some uncertainty in the functioning of the Committee; annual appointment seems desirable.

Changes were made in phraseology. 81st Congress, House Report No. 557.
§ 195. Admission of foreign nationals for instruction; restrictions; conditions

(a) A foreign national may not receive instruction at the Academy except as authorized by this section.

(b) The President may designate not more than 36 foreign nationals whom the Secretary may permit to receive instruction at the Academy.

(c) A person receiving instruction under this section is entitled to the same pay and allowances, to be paid from the same appropriations, to be credited to the appropriations bearing the rate determined by the Secretary, for the cost of providing such instruction, including pay and allowances, unless a waiver therefrom has been granted to that country by the Secretary. Funds received by the Secretary for this purpose shall be credited to the appropriations bearing the cost thereof, and may be apportioned between fiscal years.

(d) A person receiving instruction under this section is—

1. not entitled to any appointment in the Coast Guard by reason of his graduation from the Academy; and

2. subject to those regulations applicable to the Academy governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation, except as may otherwise be prescribed by the Secretary.


Subsec. (a). Pub. L. 94–468 substituted provision barring foreign nationals from receiving instruction at the Academy unless authorized by this section, for provision which authorized the Secretary to permit four persons at a time from the Republic of the Philippines, as designated by the President, to attend the Academy.

Subsec. (b). Pub. L. 94–468 substituted provision authorizing the President to designate not more than thirty-six foreign nationals whom the Secretary may permit to attend the Academy, for provision which authorized foreign nationals to receive the same pay and allowances as cadets at the Academy.

Subsec. (c). Pub. L. 94–468 substituted provision authorizing a foreign national to receive the same pay and allowances as a cadet providing his country agree in advance to reimburse the United States and directing the Secretary to credit any funds so received to the appropriations for pay and allowances, for provision which required that foreign nationals be subject to the same rules and regulations as cadets.


§ 196. Participation in Federal, State, or other educational research grants

Notwithstanding any other provision of law, the United States Coast Guard Academy may compete for and accept Federal, State, or other educational research grants, subject to the following limitations:

1. No award may be accepted for the acquisition or construction of facilities.

2. No award may be accepted for the routine functions of the Academy.


§ 197. Cadets: charges and fees for attendance; limitation

(a) Prohibition.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

(b) Exception.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994.


§ 198. Coast Guard history fellowships

(a) Fellowships.—The Commandant of the Coast Guard may prescribe regulations under which the Commandant may award fellowships in Coast Guard history to individuals who are eligible under subsection (b).

(b) Eligible individuals.—An individual shall be eligible under this subsection if the individual is a citizen or national of the United States and—

1. is a graduate student in United States history;

2. has completed all requirements for a doctoral degree other than preparation of a dissertation; and
§ 199. Marine safety curriculum

The Commandant of the Coast Guard shall ensure that professional courses of study in marine safety are provided at the Coast Guard Academy, and during other officer accession programs, to give Coast Guard cadets and other officer candidates a background and understanding of the marine safety program. These courses may include such topics as program history, vessel design and construction, vessel inspection, casualty investigation, and administrative law and regulations.


AMENDMENTS


CHAPTER 11—PERSONNEL

OFFICERS

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[356. Repealed.]

Section 357. Involuntary retirement of enlisted members.

[358. Repealed.]

Section 359. Recall to active duty during war or national emergency.

Section 360. Recall to active duty with consent of member.

Section 361. Relief of retired enlisted member promoted while on active duty.

Section 362. Retirement in cases where higher grade or rating has been held.

[363, 364. Repealed.]

Section 365. Extension of enlistments.

Section 366. Retention beyond term of enlistment in case of disability.

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[368. Repealed.]

Section 369. Inclusion of certain conditions in enlistment contract.

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Section 424a. Suspension of payment of retired pay of members absented from the United States.

Section 425. Board for Correction of Military Records.

Section 426. Emergency leave retention authority.

[431. Repealed.]

Section 432. Personnel of former Lighthouse Service.

Section 433 to 440. Repealed.

Section 441. Notes.

Section 442. Personnel of former Lighthouse Service.

Section 443 to 440. Repealed.

HISTORICAL AND REVISION NOTES

This chapter, dealing with the appointment, enlistment, promotion, retirement and recall of all military personnel, covers subject matter which has been greatly affected by war-time legislation and, therefore, has required rather extensive rewriting of existing law in order to correlate all of the various provisions. An attempt has been made to provide for enlisted men and warrant officers in a manner similar to the way that commissioned officers are provided for; for example, the act of February 21, 1946, ch. 34, 60 Stat. 29 (title 14, U.S.C., 1946 ed., §162a), made provision for the retirement of commissioned officers on half pay after twenty years naval service, and a prewar statute provided for twenty year retirement of enlisted men on half pay. This leaves warrant officers the only military group not eligible for retirement in twenty years, and a provision such as found in section 305 of this title, granting such retirement, seems clearly indicated in order to avoid unjust discrimination.

The subject matter seemed to break down into the sub-heads of "Commissioned Officers", "Warrant Officers", "Enlisted Men", and "General Provisions". Each of the first three sub-heads parallels the other two, insofar as the applicability of statutes of the three groups permits. The last sub-head includes the broad provisions which, in the same terms, can be made applicable to all military personnel. In accord with existing Navy and Coast Guard law, the term "commissioned officer" includes commissioned warrant officers unless specifically excepted, or manifestly inapplicable. Here-tofore Coast Guard statutes have designated commissioned warrant officers as chief warrant officers; in line with Navy designation it is changed to commissioned warrant officers throughout this title. Terms such as "Coast Guard personnel" or "personnel of the Coast Guard", as used throughout this title, are intended to include all employees of the Service, civilian and military. 81st Congress, House Report No. 357.

AMENDMENTS


1966—Pub. L. 89–144, §125, June 9, 1966, 80 Stat. 197, substituted “Grade on retirement” for “Retirement in cases where higher grade has been held” in item 334, and added items 371, 372, and 373.


1953—Pub. L. 88–130, §§19(b), 20(b)(1), Sept. 24, 1953, 67 Stat. 175, 177, 183, added items 211 to 214, 251 to 262, 271 to 277, 281 to 294, 321 to 327, 331 to 338, struck out items 221 to 226, 301 to 313a, 435 to 437, 439, and 440, and struck out headings “COMMISSIONED OFFICERS” and “WARRANT OFFICERS” which preceded sections 221 and 303, respectively, of this title.


§ 211

OFFICERS
A. APPOINTMENTS

§ 211. Original appointment of permanent commissioned officers

(a)(1) The President may appoint permanent commissioned officers in the Regular Coast Guard in grades appropriate to their qualification, experience, and length of service, as the needs of the Coast Guard may require, from among the following categories:

(A) Graduates of the Coast Guard Academy.

(B) Commissioned warrant officers, warrant officers, and enlisted members of the Regular Coast Guard.

(C) Members of the Coast Guard Reserve who have served at least 2 years as such.

(D) Licensed officers of the United States merchant marine who have served 2 or more years aboard a vessel of the United States in the capacity of a licensed officer.

(2) Original appointments under this section in the grades of lieutenant commander and above shall be made by the President by and with the advice and consent of the Senate.

(3) Original appointments under this section in the grades of ensign through lieutenant shall be made by the President alone.

(b) No person shall be appointed a commissioned officer under this section until his mental, moral, physical, and professional fitness to perform the duties of a commissioned officer has been established under such regulations as the Secretary shall prescribe.

(c) Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in such grade. Appointees whose dates of commission are the same shall take precedence with each other as the Secretary shall determine.


AMENDMENTS


1966—Subsec. (a)(4). Pub. L. 89-444 substituted “two years” for “four years”.

SAVINGS PROVISION

“(a) Officers in each grade who have been recommended as qualified for temporary promotion under laws and regulations in effect the day before the effective date of this Act (Sept. 24, 1963) but not promoted to the grade for which they were recommended shall be placed on a list of selectees in order of their precedence, and they shall be promoted as if they had been selected for promotion in the approved report of a selection board convened under this Act [enacting sections 41a, 211 to 214, 251 to 262, 271 to 277, 281 to 294, 321 to 327, 331 to 335, of this title amending sections 42, 44, 46, 47, 190, 433, 759a, and 791 of this title, and enacting provisions set out as notes under sections 262, 285, and 289 of this title, and repealing sections 221 to 246, 301 to 313a, 435 to 437, 439, and 440 of this title, and act Sept. 21, 1961, 75 Stat. 538, set out as a note under section 435 of this title).

“(b) Officers who have been recommended for promotion to the grade of rear admiral under laws and regulations in effect the day before the effective date of this Act but have not been promoted to that grade shall be considered as having been recommended in the approved report of a selection board convened under this Act.

“(c) The enactment of this Act does not terminate the appointment of any officer.

“(d) An officer of the Regular Coast Guard who on the day before the effective date of this Act had been promoted to and was serving on active duty in a temporary grade higher than his permanent grade shall be considered to have been promoted to that grade under section 271 of title 14, United States Code.

“(e) An officer of the Regular Coast Guard who was appointed as a permanent commissioned officer under any provision of law in effect prior to the effective date of this Act and who is serving on active duty shall be considered to have been appointed under section 241 of title 14, United States Code, and subject to the provisions thereof. An officer of the Regular Coast Guard who was appointed as a permanent commissioned officer under any provision of law in effect prior to the effective date of this Act shall be considered to have been appointed under section 241 of title 14, United States Code, and subject to the provisions thereof.

“(f) Each officer who would have been required to retire on June 30, 1962, under the provisions of section 288 of title 14, United States Code, had that section been in effect on that date, shall be retired on the last day of the sixth month following the month in which this Act becomes effective. If, under section 288 of title 14, United States Code, the retirement of any other officer would be required after June 30, 1962, but less than six months following the effective date of this Act, his retirement shall be deferred until the last day of the twelfth month following the month in which this Act becomes effective, or June 30, 1964, whichever is earlier.

“(g) The enactment of this Act does not increase or decrease the retired pay of any person retired on or prior to the effective date of this Act.

“(h) Notwithstanding section 1431 of title 10, United States Code, an original elective change, or revocation of an election, made under that section by an officer who is retired under the provisions of section 282, 283,


Effective Date of Repeal

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

§ 214. Appointment of temporary officers

(a) The president may appoint temporary commissioned officers—

(1) in the Regular Coast Guard in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers, warrant officers, and enlisted members of the Coast Guard, and from holders of licenses issued under chapter 71 of title 46; and

(2) in the Coast Guard Reserve in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers of the Coast Guard Reserve.

(b) Temporary appointments under this section do not change the permanent, probationary, or acting status of persons so appointed, prejudice them in regard to promotion or appointment, or abridge their rights or benefits. A person who is appointed under this section may not suffer any reduction in the rate of pay and allowances to which he would have been entitled had he remained in his former grade and continued to receive the increases in pay and allowances authorized for that grade.

(c) An appointment under this section, or a subsequent promotion appointment of a temporary officer, may be vacated by the appointing officer at any time. Each officer whose appointment is so vacated shall revert to his permanent status.

(d) Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their appointments as officers in such grade. Appointees whose dates of appointment are the same shall take precedence with each other as the Secretary shall determine.


AMENDMENTS

2010—Subsec. (a). Pub. L. 111–281 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

"The President may appoint temporary commissioned officers in the Regular Coast Guard in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers, warrant officers, and enlisted members of the Coast Guard, and from licensed officers of the United States merchant marine."


1974—Subsec. (b). Pub. L. 93–283 substituted prohibition against any reduction in rate of pay and allowances of temporary officer appointee to which appointee would have been entitled had he remained in his former grade and continued to receive the increases in pay and allowances authorized for that grade for prior prohibition against reduction in pay and allowances to which appointee was entitled because of his permanent status at the time of his temporary appointment, or any reduction in pay and allowances to which appointee was entitled under a prior temporary appointment in a lower grade.

1966—Subsec. (a). Pub. L. 89–444, §1(12), added licensed officers of the United States merchant marine to the group from which the President may appoint temporary commissioned warrant officers for the Regular Coast Guard not above lieutenant.

1965—Subsec. (b). Pub. L. 89–444, §1(13), added licensed officers of the United States merchant marine to the group from which the President may appoint temporary commissioned warrant officers for the Regular Coast Guard.

1964—Subsec. (c). Pub. L. 89–444, §1(14), added licensed officers of the United States merchant marine to the group from which the Secretary may appoint temporary warrant officers (W–1) in the Regular Coast Guard.

Effective Date of 1994 Amendment

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

(a) Among warrant officer grades, warrant officers of a higher numerical designation are senior to warrant officer grades of a lower numerical designation.

(b) Warrant officers shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in the Coast Guard in such grade. Precedence among warrant officers of the same grade who have the same date of commission shall be determined by regulations prescribed by the Secretary.


Effective Date

Section effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103–337, set out as an Effective Date of 1994 Amendment note under section 271 of Title 10, Armed Forces.


Section 221, acts Aug. 4, 1949, ch. 393, 63 Stat. 512, authorized filling of vacancies in active list of regular commissioned officers. See sections 251, 271(b) of this title.


Section 223, acts Aug. 4, 1949, ch. 393, 63 Stat. 512, related to methods and criteria used in filling of vacancies by promotion. See sections 271, 294, and 335, of this title.

Section 224, act Aug. 4, 1949, ch. 393, 63 Stat. 512, authorized filling of vacancies by appointment. See section 211 et seq. of this title.

Section 225, act Aug. 4, 1949, ch. 393, 63 Stat. 513, authorized President to make permanent appointments. See section 251 et seq. of Title 10, Armed Forces.


Section 228, act Aug. 4, 1949, ch. 393, 63 Stat. 514, authorized appointment of commissioned warrant officers. See section 251 et seq. of Title 10, Armed Forces.

Section 229, act Aug. 4, 1949, ch. 393, 63 Stat. 514, related to revocation of commissions during first three years of service. See section 281 et seq. of this title.


Section 231, act Aug. 4, 1949, ch. 393, 63 Stat. 514, related to voluntary retirement after 30 years service. See section 292 of this title.


Section, act Aug. 4, 1949, ch. 393, 63 Stat. 515, related to retirement for disabilities incident to service. See sections 1294 and 1376 of Title 10, Armed Forces.

Additional Repeal

Section was also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.


Section 235, acts Aug. 4, 1949, ch. 393, 63 Stat. 515, related to designation and assembly of a personnel board, its procedure and its recommendations. See sections 251 to 254 of this title.

Section 236, acts Aug. 4, 1949, ch. 393, 63 Stat. 516, related to involuntary retirement after 30 years' service.

Section 237, act Aug. 4, 1949, ch. 393, 63 Stat. 516, related to involuntary retirement after 10 years' service.

Section 238, act Aug. 4, 1949, ch. 393, 63 Stat. 516, related to voluntary retirement when out of line of promotion.


Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 516; Aug. 3, 1950, ch. 536, § 6, 64 Stat. 406, authorized advancement to a higher grade upon retirement in case of special commendation.

Effective Date of Repeal

Section 10(b) of Pub. L. 86–155 provided that repeal of this section and section 339 of this title shall become effective on Nov. 1, 1959.

Additional Repeal

Section was also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.


Section 241, acts Aug. 4, 1949, ch. 393, 63 Stat. 517; Aug. 3, 1950, ch. 536, § 8, 64 Stat. 407, related to recall to active duty with the consent of the officer. See section 332 of this title.


Section 244, act Aug. 4, 1949, ch. 393, 63 Stat. 517, related to resignation when out of line of promotion.


Section 245, act Aug. 4, 1949, ch. 393, 63 Stat. 517, related to retiring or dropping for disabilities not incident to service. See section 1207 of Title 10, Armed Forces.

Section 246, act Aug. 4, 1949, ch. 393, 63 Stat. 518, related to dropping for disabilities due to vicious habits. See section 1207 of Title 10.

ADDITIONAL REPEAL

Sections were also repealed by Pub. L. 88–130, § 1(10)(A), Sept. 24, 1963, 77 Stat. 177.


Section 248, added act Aug. 9, 1955, ch. 684, § 1(2), 69 Stat. 620, related to involuntary retirement of captains and to their retention on active list. See section 290 of this title.

B. SELECTION FOR PROMOTION

§ 251. Selection boards; convening of boards

At least once a year and at such other times as the needs of the service require, the Secretary shall convene selection boards to recommend for promotion to the next higher grade officers on the active duty promotion list in each grade from lieutenant (junior grade) through captain, with separate boards for each grade. However, the Secretary is not required to convene a board to recommend officers for promotion to a grade when no vacancies exist in the grade concerned, and he estimates that none will occur in the next twelve months.


§ 252. Selection boards; composition of boards

A board convened under section 251 of this title shall consist of five or more officers on the active duty promotion list who are serving in or above the grade to which the board may recommend officers for promotion. No officer may be a member of two successive boards convened to consider officers of the same grade for promotion.


§ 253. Selection boards; notice of convening; communication with board

(a) Before a board is convened under section 251 of this title, notice of the convening date, the promotion zone to be considered, and the officers eligible for consideration shall be given to the service at large.

(b) Each officer eligible for consideration by a selection board convened under section 251 of this title may send a communication through official channels to the board, to arrive not later than the date the board convenes, inviting attention to any matter of record in the armed forces concerning himself. A communication sent under this section may not criticize any officer or reflect upon the character, conduct, or motive of any officer.


AMENDMENTS

2010—Subsec. (a). Pub. L. 111–281 inserted “and” after “zone to be considered,” and struck out “, and the number of officers the board may recommend for promotion” after “eligible for consideration.”

1966—Subsec. (a). Pub. L. 89–444 added officers eligible for consideration to list of items for which notice must be given to the service at large before a board is convened under section 251 of this title.

§ 254. Selection boards; oath of members

Each member of a selection board shall swear that he will, without prejudice or partiality, and having in view both the special fitness of officers and the efficiency of the Coast Guard, perform the duties imposed upon him.


§ 255. Number of officers to be selected for promotion

Before convening a board under section 251 of this title to recommend officers for promotion to any grade, the Secretary shall determine the total number of officers to be selected for promotion to that grade. This number shall be equal to the number of vacancies existing in the grade, plus the number of additional vacancies estimated for the next twelve months, less the number of officers on the selection list for the grade.


§ 256. Promotion zones

(a) Before convening a selection board to recommend officers for promotion to any grade above lieutenant (junior grade) and below rear admiral (lower half), the Secretary shall establish a promotion zone for the grade to be considered. The promotion zone for each grade shall consist of the most senior officers of that grade on the active duty promotion list who are eligible for consideration for promotion to the next higher grade and who have not previously been placed in a promotion zone for selection for promotion to the next higher grade. The number of officers in each zone shall be determined after considering—

(1) the needs of the service;

(2) the estimated numbers of vacancies available in future years to provide comparable opportunity for promotion of officers in successive year groups; and

(3) the extent to which current terms of service in that grade conform to a desirable career promotion pattern.

However, such number of officers shall not exceed the number to be selected for promotion divided by six-tenths.
§ 256a. Promotion zones from which officers will be selected for promotion to the grade of rear admiral (lower half) shall be established by the Secretary as the needs of the service require.


AMENDMENTS


1966—Subsec. (a). Pub. L. 89–444 limited promotion zone by requiring that list of officers under consideration be officers eligible for consideration for promotion to next higher grade.

§ 256a. Promotion year; defined

For the purposes of this chapter, “promotion year” means the period which commences on July 1 of each year and ends on June 30 of the following year.


§ 257. Eligibility of officers for consideration for promotion

(a) An officer on the active duty promotion list becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he completes the following amount of service computed from his date of rank in the grade in which he is serving:

(1) two years in the grade of lieutenant (junior grade);
(2) three years in the grade of lieutenant commander;
(3) four years in the grade of commander; and
(4) five years in the grade of captain.

(b) For the purpose of this section, service in a grade includes all qualifying service in that grade or a higher grade, under either a temporary or permanent appointment. However, service in a grade under a temporary service appointment under section 275 of this title is not eligible for consideration for promotion to the next higher grade during the period of that deferment.

(f) The Secretary may waive subsection (a) to the extent necessary to allow officers described therein to have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.


AMENDMENTS

1985—Subsec. (a), (b). Pub. L. 99–145 substituted “promotion year” for “fiscal year”.


Subsec. (d). Pub. L. 94–546, §1(19)(b), struck out cl. (3) “if serving in a grade below captain, has not twice failed of selection for promotion to the next higher grade.”

§ 258. Selection boards; information to be furnished boards

(a) IN GENERAL.—The Secretary shall furnish the appropriate selection board convened under section 251 of this title with—

(1) the number of officers that the board may recommend for promotion to the next higher grade; and
(2) the names and records of all officers who are eligible for consideration for promotion to the grade to which the board will recommend officers for promotion.

(b) PROVISION OF DIRECTION AND GUIDANCE.—

(1) In addition to the information provided pursuant to subsection (a), the Secretary may furnish the selection board—

(A) specific direction relating to the needs of the Coast Guard for officers having particular skills, including direction relating to the need for a minimum number of officers with particular skills within a specialty; and
(B) any other guidance that the Secretary believes may be necessary to enable the board to properly perform its functions.

(2) Selections made based on the direction and guidance provided under this subsection shall not exceed the maximum percentage of officers who may be selected from below the announced promotion zone at any given selection board convened under section 251 of this title.


AMENDMENTS

1996—Cl. (2). Pub. L. 104–324 struck out “, with identification of those officers who are in the promotion zone” after “officers for promotion”.

1995—Pub. L. 99–661 substituted “officers who are eligible for consideration for promotion to the grade to which the board will recommend officers for pro-
§ 259. Officers to be recommended for promotion

(a) A selection board convened to recommend officers for promotion shall recommend those eligible officers whom the board, giving due consideration to the needs of the Coast Guard for officers with particular skills so noted in specific direction furnished to the board by the Secretary under section 258 of this title, considers best qualified of the officers under consideration for promotion. No officer may be recommended for promotion unless he receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

(b) The number of officers that a board convened under section 251 of this title may recommend for promotion to a grade below rear admiral (lower half) from among eligible officers junior in rank to the junior officer in the appropriate promotion zone may not exceed:
   (1) 5 percent of the total number of officers that the board is authorized to recommend for promotion to the grade of lieutenant or lieutenant commander;
   (2) 7½ percent of the total number of officers that the board is authorized to recommend for promotion to the grade of commander; and
   (3) 10 percent of the total number of officers that the board is authorized to recommend for promotion to the grade of captain;

unless such percentage is a number less than one, in which case the board may recommend one such officer for promotion.

(c)(1) After selecting the officers to be recommended for promotion, a selection board may recommend officers of particular merit, from among those officers chosen for promotion, to be placed at the top of the list of selectees promulgated by the Secretary under section 271(a) of this title. The number of officers that a board may recommend to be placed at the top of the list of selectees may not exceed the percentages set forth in subsection (b) unless such a percentage is a number less than one, in which case the board may recommend one officer for such placement. No officer may be recommended to be placed at the top of the list of selectees unless he or she receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

(2) The Secretary shall conduct a survey of the Coast Guard officer corps to determine if implementation of this subsection will improve Coast Guard officer retention. A selection board may not make any recommendation under this subsection before the date on which the Secretary publishes a finding, based upon the results of the survey, that implementation of this subsection will improve Coast Guard officer retention.

(3) The Secretary shall submit any finding made by the Secretary pursuant to paragraph (2) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

§ 260. Selection boards; reports

(a) Each board convened under section 251 of this title shall submit a report in writing, signed by all the members thereof, containing the names of the officers recommended for promotion and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 271(a) of this title.

(b) A board convened under section 251 of this title shall certify that, in the opinion of at least a majority of the members if the board has five members, or in the opinion of at least two-thirds of the members if the board has more than five members, the officers recommended for promotion are the best qualified for promotion to meet the needs of the service (as noted in specific direction furnished the board by the Secretary under section 258 of this title) of those officers whose names have been furnished to the board.

§ 261. Selection boards; submission of reports

(a) A board convened under section 251 of this title shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in revision and resubmission to the Secretary. After his final review, the Secretary shall submit the report of the board to the President for his approval, modification, or disapproval.

(b) If any officer recommended for promotion is not acceptable to the President, the President may remove the name of that officer from the report of the board.
§ 262. Failure of selection for promotion

(a) An officer, other than an officer serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for his grade under section 256 of this title, fails of selection if he is not selected for promotion by the selection board which considered him, or if having been recommended for promotion by the board, his name is thereafter removed from the report of the board by the President.

(b) An officer shall not be considered to have failed of selection if he was not considered by a selection board because of administrative error. If he is selected by the next succeeding selection board and promoted, he shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held had he been recommended by the first selection board.


§ 262. Failure of selection for promotion

(a) An officer, other than an officer serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for his grade under section 256 of this title, fails of selection if he is not selected for promotion by the selection board which considered him, or if having been recommended for promotion by the board, his name is thereafter removed from the report of the board by the President.

(b) An officer shall not be considered to have failed of selection if he was not considered by a selection board because of administrative error. If he is selected by the next succeeding selection board and promoted, he shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held had he been recommended by the first selection board.


Placement out of line of promotion prior to September 24, 1963

Pub. L. 88–130, §2(a), (b), Sept. 24, 1963, 77 Stat. 190, provided that:

“(a) Officers who have been placed permanently out of line of promotion under laws and regulations of the Secretary in effect the day before the effective date of this Act [Sept. 24, 1963] shall be considered as having failed of selection for promotion to the next higher grade for the second time on the day before the effective date of this Act, and shall be subject to the provisions of sections 252 through 255 of title 14, United States Code, as appropriate. No officer shall be separated from the service under the above provisions prior to the last day of the sixth calendar month following the effective date of this Act.

“(b) Officers who have been placed temporarily out of line of promotion for appointment for temporary service under laws and regulations of the Secretary in effect the day before the effective date of this Act [Sept. 24, 1963] shall be considered as having once failed of selection for promotion to the next higher grade.”

C. Promotions

§ 271. Promotions; appointments

(a) When the report of a board convened to recommend officers for promotion has been approved by the President, the Secretary shall place the names of all officers selected and approved on a list of selectees in the order of their seniority on the active duty promotion list. The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.

(b) Officers on the list of selectees may be promoted by appointment in the next higher grade to fill vacancies in the authorized active duty strength of the grade as determined under section 42 of this title after officers on any previous list of selectees for that grade have been promoted. Officers shall be promoted in the order that their names appear on the list of selectees. The date of rank of an officer promoted under this subsection shall be the date of his appointment in that grade.

(c) An officer serving on active duty in the grade of ensign may, if found fully qualified for promotion in accordance with regulations prescribed by the Secretary, be promoted to the grade of lieutenant (junior grade) by appointment after he has completed twelve months' active service in grade. The date of rank of an officer promoted under this subsection shall be the date of his appointment in the grade of lieutenant (junior grade) as specified by the Secretary.

(d) When a vacancy in the grade of rear admiral occurs, the senior rear admiral (lower half) serving on the active duty promotion list shall be appointed by the President, by and with the advice and consent of the Senate, to fill the vacancy. The appointment shall be effective on the date the vacancy occurred.

(e) Appointments of regular officers under this section shall be made by the President, by and with the advice and consent of the Senate except that advice and consent is not required for appointments under this section in the grade of lieutenant (junior grade) or lieutenant. Appointments of Reserve officers shall be made as prescribed in section 12203 of title 10.

(f) The promotion of an officer who is under investigation or against whom proceedings of a court-martial or a board of officers are pending may be delayed without prejudice by the Secretary until completion of the investigation or proceedings. However, unless the Secretary determines that a further delay is necessary in the public interest, a promotion may not be delayed under this subsection for more than one year after the date the officer would otherwise have been promoted. An officer whose promotion is delayed under this subsection and who is subsequently promoted shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held had his promotion not been so delayed.


Amendments

2002—Subsec. (a). Pub. L. 107–295 inserted at end “The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.”


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ments under this section in the grade of lieutenant (junior grade) or lieutenant” before the period at end of first sentence.


Subsec. (d) to (f). Pub. L. 97–417, § 2(5)(B), (C), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.


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

PERMANENT GRADES AND TITLES FOR OFFICERS HOLDING CERTAIN GRADES ON JANUARY 3, 1983
Pub. L. 97–417, § 4, Jan. 4, 1983, 96 Stat. 2087, provided that:

“(a) An officer of the Coast Guard who on the day before the effective date of this Act (Jan. 4, 1983)—

“(1) was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the upper half;

“(2) was serving on active duty in the grade of rear admiral or vice admiral,

shall after that date hold the permanent grade of rear admiral.

“(b) An officer who on the day before the effective date of this Act (Jan. 4, 1983) was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the lower half shall after that date hold the permanent grade of commodore, but shall retain the title of rear admiral.

“(c) An officer who on the day before the effective date of this Act (Jan. 4, 1983) was an on approved list of officers recommended for promotion to the grade of rear admiral, shall, upon promotion, hold the grade of commodore with the title of rear admiral.

“(d) An officer who on the day before the effective date of this Act (Jan. 4, 1983)—

“(1) was serving on active duty in the grade of rear admiral and was entitled to the basic pay of a rear admiral of the lower half;

“(2) was on an approved list of officers recommended for promotion to the grade of rear admiral,

shall, on and after the effective date of this Act, or in the case of an officer on such a list, upon promotion to the grade of commodore, be entitled to wear the uniform and insignia of a rear admiral.

“(e) An officer of the Coast Guard who on the day before the effective date of this Act (Jan. 4, 1983) held the grade of rear admiral on the retired list retains the grade of rear admiral and is entitled, after that date, to wear the uniform and insignia of a rear admiral. Such an officer, when ordered to active duty—

“(1) holds the grade and has the right to wear the uniform and insignia of a rear admiral; and

“(2) ranks among commissioned officers of the Armed Forces as and is entitled to the basic pay of—

“(A) a commodore, if his retired pay was based on the basic pay of a rear admiral of the lower half on the day before the effective date of this Act; or

“(B) a rear admiral, if his retired pay was based on the basic pay of a rear admiral of the upper half on the day before the effective date of this Act.

“(f) Unless entitled to a higher grade under another provision of law, an officer who on the day before the effective date of this Act (Jan. 4, 1983)—

“(1) was serving on active duty, and

“(2) held the grade of rear admiral; and

“who retires on or after the effective date of this Act, retires in the grade of rear admiral and is entitled to wear the uniform and insignia of a rear admiral.

such an officer is ordered to active duty after his retirement, he is considered, for the purposes of determining his pay, uniform, insignia, and rank among other commissioned officers, as having held the grade of rear admiral on the retired list on the day before the effective date of this Act.”

TEMPORARY GRADERS AND RECOMMENDATIONS FOR PROMOTIONS IN EFFECT PRIOR TO SEPTEMBER 24, 1983
Savings provisions in section 5(a), (b), and (d) of Pub. L. 88–130, protecting officers recommended for promotion or serving in temporary grade higher than permanent grade, are set out as a note under section 211 of this title.

§ 272. Removal of officer from list of selectees for promotion
(a) The President may remove the name of any officer from a list of selectees established under section 271 of this title.

(b) If the Senate does not consent to the appointment of an officer whose name is on a list of selectees established under section 271 of this title, that officer’s name shall be removed from this list.

(c) An officer whose name is removed from a list under subsection (a) or (b) continues to be eligible for consideration for promotion. If he is selected for promotion by the next selection board and promoted, he shall be given the date of rank and position on the active duty promotion list in the grade to which promoted that he would have held if his name had not been removed. However, if the officer is not selected by the next selection board or if his name is again removed from the list of selectees, he shall be considered for all purposes as having twice failed of selection for promotion.


§ 273. Promotions; acceptance; oath of office
(a) An officer who receives an appointment under section 271 of this title is considered to have accepted his appointment on its effective date, unless he expressly declines the appointment.

(b) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon his appointment in a higher grade.


Amendments

§ 274. Promotions; pay and allowances
An officer who is promoted under section 271 of this title shall be entitled to the pay and allowances of the grade to which promoted from his date of rank in such grade.


§ 275. Wartime temporary service promotions
(a) In time of war, or of national emergency declared by the President or Congress, the Presi-
dent may suspend any section of this chapter relating to the selection, promotion, or involuntary separation of officers. Such a suspension may not continue beyond six months after the termination of the war or national emergency.

The preceding sections of this chapter relating to selection and promotion of officers are suspended in accordance with subsection (a), and the needs of the service require, the President may, under regulations prescribed by him, promote to a higher grade any officer serving on active duty in a grade below chief warrant officer, W–4.

(c) In time of war, or of national emergency declared by the President or Congress, the President may, under regulations to be prescribed by him, promote to the next higher warrant officer grade any warrant officer serving on active duty in a grade of ensign or above in the Coast Guard.

(d) A promotion under this section to a grade above lieutenant may be made only upon the recommendation of a board of officers convened for that purpose.

(e) A promotion under this section shall be made by an appointment for temporary service. Original appointments under this section in the grades of lieutenant commander and above shall be made by the President by and with the advice and consent of the Senate. Original appointments under this section in the grades of ensign through lieutenant shall be made by the President by and with the advice and consent of the Senate.

(g) An appointment under this section, unless expressly declined, is regarded as accepted on the date specified by the Secretary as the date of the appointment, and the officer so promoted is entitled to pay and allowances of the grade to which appointed from that date.

(h) An appointment under this section does not terminate any appointments held by an officer concerned under any other provisions of this title. The President may terminate temporary appointments made under this section at any time. An appointment under this section is effective for such period as the President determines. However, an appointment may not be effective later than six months after the end of the war or national emergency. When his temporary appointment under this section is terminated or expires, the officer shall revert to his former grade.

(i) Not later than six months after the end of the war or national emergency the President shall, under such regulations as he may prescribe, reestablish the active duty promotion list with adjustments and additions appropriate to the conditions of original appointment and wartime service of all officers to be included thereon. The President may, by and with the advice and consent of the Senate, appoint officers on the reestablished active duty promotion list to fill vacancies in the authorized active duty strength of each grade. Such appointments shall be considered to have been made under section 271 of this title.

Amendments

2006—Subsec. (f). Pub. L. 109–241 substituted “Original appointments under this section in the grades of lieutenant commander and above shall be made by the President by and with the advice and consent of the Senate. Original appointments under this section in the grades of ensign through lieutenant shall be made by the President alone.” for “An appointment under this section to a grade above captain shall be made by the President by and with the advice and consent of the Senate. An appointment under this section to grade above lieutenant commander of an officer in the Coast Guard Reserve shall be made by the President, by and with the advice and consent of the Senate.”

1983—Subsec. (d). Pub. L. 97–417 repealed subsec. (d) which had established the grade of commodore in the Coast Guard for the purposes of this section.


Delegation of Authority

Authority of President under subsec. (a) of this section as invoked by section 2 of Ex. Ord. No. 13223, Sept. 10, 1969, 64 F.R. 48201, as amended, delegated to Secretary of Homeland Security by section 5 of Ex. Ord. No. 13223, set out as a note under section 12302 of Title 10, Armed Forces.

§ 276. Promotion of officers not included on active duty promotion list

Officers who are not included on the active duty promotion list may be promoted under regulations to be prescribed by the Secretary. These regulations shall, as to officers serving in connection with organizing, administering, recruiting, instructing, or training the reserve components, provide as nearly as practicable, that such officers will be selected and promoted in the same manner and will be afforded equal opportunity for promotion as officers of the corresponding grade on the active duty promotion list.


Section, added Pub. L. 88–130, §110(a), Sept. 24, 1963, 77 Stat. 183, provided that warrant officers could be temporarily promoted to higher warrant officer grades under regulations prescribed by Secretary.

Construction of Repeal

Pub. L. 104–324, title II, §210(a), Oct. 19, 1996, 110 Stat. 3915, provided that: “Section 277 of title 14, United States Code, is repealed. The repeal of such section shall not be construed to affect the status of any warrant officer currently serving under a temporary promotion.”

D. DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS

§ 281. Revocation of commissions during first five years of commissioned service

The Secretary, under such regulations as he may prescribe, may revoke the commission of any regular officer on active duty who, at the date of such revocation, has had less than five years of continuous service as a commissioned officer in the Regular Coast Guard.

AMENDMENTS


§ 282. Regular lieutenants (junior grade); separation for failure of selection for promotion

Each officer of the Regular Coast Guard appointed under section 211 of this title who is serving in the grade of lieutenant (junior grade) and who has failed of selection for promotion to the grade of lieutenant for the second time, shall:

(1) be honorably discharged on June 30 of the promotion year in which his second failure of selection occurs; or

(2) if he so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if he were discharged on that date under clause (1); or

(3) if, on the date specified for his discharge in this section, he is eligible for retirement under any law, be retired on that date.


AMENDMENTS


RETIRE PAY ON OR PRIOR TO SEPTEMBER 24, 1963

Savings provisions in section 5(c) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

EFFECTIVENESS OF ELECTION, CHANGE, OR REVOCATION OF ELECTION OF ANNUITY

Savings provisions in section 5(h) of Pub. L. 88–130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

§ 283. Regular lieutenants; separation for failure of selection for promotion; continuation

(a) Each officer of the Regular Coast Guard appointed under section 211 of this title who is serving in the grade of lieutenant and who has failed of selection for promotion to the grade of lieutenant commander for the second time shall:

(1) be honorably discharged on June 30 of the promotion year in which his second failure of selection occurs; or

(2) if he so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if he were discharged on that date under clause (1); or

(3) if, on the date specified for his discharge in this section, he has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date; or

(4) if, on the date specified for his discharge in clause (1), he has completed at least eighteen years of active service, be retained on active duty and retired on the last day of the month in which he completes twenty years of active service, unless earlier removed under another provision of law.

(b)(1) When the needs of the service require, the Secretary may direct a selection board, which has been convened under section 251 of this title, to recommend for further continuation on active duty for terms of not less than two nor more than four years a designated number of officers of the grade of lieutenant who would otherwise be discharged or retired under this section. When so directed, the board shall recommend for continuation on active duty those officers under consideration who are, in the opinion of the board, best qualified for continuation. Each officer so recommended may, with the approval of the Secretary, and notwithstanding subsection (a), be continued on active duty for the term recommended.

(2) Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—

(A) except as provided in subparagraph (B), be honorably discharged with separation pay computed under section 286 of this title; 

(B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes 20 years of active service, unless earlier removed under another provision of law; or

(C) if, on the date specified for the officer’s discharge under this section, the officer has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date.

(c) Each officer who has been continued on active duty under subsection (b) shall, unless earlier removed from active duty, be retired on the last day of the month in which he completes twenty years of active service.


AMENDMENTS


1996—Subsec. (b). Pub. L. 104–324 substituted existing provisions as par. (1), struck out “Upon the completion of such a term he shall, unless selected for further continuation, be honorably discharged with severance pay computed under section 286 of this title, or, if eligible for retirement under any law, be retired “at end of par. (1), and added par. (2).

1962—Subsec. (b). Pub. L. 97–295 substituted “of this title” for “of this chapter” after “section 251”.


1974—Subsec. (a)(3). Pub. L. 93–283 substituted “he has completed at least 20 years of active service or is eligible” for “he is eligible”.

EFFECTIVE DATE OF 2002 AMENDMENT

§ 284. Regular Coast Guard; officers serving under temporary appointments

(a) Each officer of the Regular Coast Guard appointed under section 214 of this title who is serving in the grade of lieutenant (junior grade) or lieutenant and who has failed of selection for promotion to the grade of lieutenant or lieutenant commander, respectively, for the second time shall:

(1) be honorably discharged on June 30 of the promotion year in which his second failure of selection occurs; or

(2) if he so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if he were discharged on that date under clause (1); or

(3) if on the date specified for his discharge in this section he is eligible for retirement under any law, be retired under that law on that date.

(b) Each officer subject to discharge or retirement under subsection (a) may elect to revert to his permanent grade.


AMENDMENTS

§ 285. Regular lieutenant commanders and commanders; retirement for failure of selection for promotion

(a) Each officer of the Regular Coast Guard serving in the grade of lieutenant commander or commander, who has failed of selection for promotion to the grade of commander or captain, respectively, for the second time shall:

(1) if he has completed at least 20 years of active service or is eligible for retirement under any law on June 30 of the promotion year in which his second failure of selection occurs, be retired on that date; or

(2) if ineligible for retirement on the date specified in clause (1) be retained on active duty and retired on the last day of the month in which he completes twenty years of active service, unless earlier removed under another provision of law.

(b) A lieutenant commander or commander of the Regular Coast Guard subject to discharge or retirement under subsection (a) may be continued on active duty when the Secretary directs a selection board convened under section 251 of this title to continue up to a specified number of lieutenant commanders or commanders on active duty. When so directed, the selection board shall recommend those officers who in the opinion of the board are best qualified to advance the needs and efficiency of the Coast Guard. When the recommendations of the board are approved by the Secretary, the officers recommended for continuation shall be notified that they have been recommended for continuation and offered an additional term of service that fulfills the needs of the Coast Guard.


AMENDMENTS

Retired Pay on or Prior to September 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

Effectiveness of Election, Change, or Revocation of Election of Annuity

Savings provisions in section 5(h) of Pub. L. 88–130 providing that notwithstanding section 1431 of Title 10, Armed Forces, an election, change or revocation thereof of affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

§ 285. Interim authority for selection of commanders and captains for continuation on active duty

Section 3 of Pub. L. 88–130 authorized the Secretary, until July 1, 1966, to convene boards to recommend for continuation on active duty officers of the Coast Guard on the active duty promotion list in specified categories.
Retired pay on or prior to September 24, 1963

Savings provisions in section 5(g) of Pub. L. 88-130 providing that Pub. L. 88-130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

Effectiveness of election, change, or revocation of election of annuity

Savings provisions in section 5(h) of Pub. L. 88-130 providing that notwithstanding section 1451 of Title 10, Armed Forces, an election, change or revocation thereof of affecting an annuity, by an officer retired under this section, is effective if made prior to the first day of the third month following September 1963, are set out as a note under section 211 of this title.

§ 286. Discharge in lieu of retirement; separation pay

(a) Each officer who is retained on active duty under section 283(a)(4), 283(b), or 285 of this title may, if he so requests, with the approval of the Secretary, be honorably discharged at any time prior to the date otherwise specified for his retirement or discharge.

(b) An officer of the Regular Coast Guard who is discharged under this section or section 282, 283, or 284 of this title and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

(c) An officer of the Regular Coast Guard who is discharged under section 327 of this title and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10 as determined under regulations promulgated by the Secretary.

(d) Notwithstanding subsections (a) and (b), an officer discharged under chapter 11 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer requested in writing or otherwise sought not to be selected for promotion, or requested removal from the list of selectees.


Amendments

2002—Pub. L. 107-295 substituted “separation” for “severance” in section catchline, added subsecs. (b) to (d), and struck out former subsec. (b) which read as follows: Each officer discharged under this section or under section 282, 283, or 284 of this title is entitled to a lump-sum payment computed by multiplying his years of active commissioned service, but not more than twelve, by two months’ basic pay of the grade in which he is serving on the date of his discharge. In determining the total number of years of active service to be used as a multiplier in computing this payment, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded. The acceptance of a lump-sum payment under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received payment under this section until the total amount deducted equals the amount of the lump-sum payment.”

Effective date of 2002 amendment

Pub. L. 107-295, title IV, § 416(c), Nov. 25, 2002, 116 Stat. 2122, provided that: “The amendments made by paragraphs (2), (3), (4), and (5) of subsection (a) [amending this section and sections 283, 286a, and 327 of this title] shall take effect 4 years after the date of enactment of this Act [Nov. 25, 2002], except that subsection (d) of section 286 of title 14, United States Code, as amended by paragraph (3) of subsection (a) of this section, shall take effect on the date of enactment of this Act and shall apply with respect to conduct on or after that date. The amendments made to the table of sections of chapter 11 of title 14, United States Code, by paragraphs (2), (3), and (4) of subsection (b) [amending the table of sections for this chapter] of this section shall take effect 4 years after the date of enactment of this Act.”

Interim authority for selection of commanders and captains for continuation on active duty

Section 3(p) of Pub. L. 88-130 authorized officers who failed of selection for continuation to request their discharge with severance pay computed in accordance with this section.

§ 286a. Regular warrant officers: separation pay

(a) A regular warrant officer of the Coast Guard who is discharged under section 580 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

(b) A regular warrant officer of the Coast Guard who is discharged under section 1165 or 1166 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10 as determined under regulations promulgated by the Secretary.

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

(d) The acceptance of severance pay under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received severance pay under this section, until the total deductions equal the amount of such severance pay.


Amendments

2002—Pub. L. 107-295 substituted “separation” for “severance” in section catchline, added subsecs. (a) to
(c), and struck out former subsec. (a) to (c) which related to, in subsec. (a), severance pay of a regular warrant officer of the Coast Guard who is separated under section 580(a)(4)(A) of title 10, in subsec. (b), severance pay of a regular warrant officer of the Coast Guard who is separated under section 1166 of title 10, and, in subsec. (c), the calculation of part of the year of service for the purposes of this section.

1998—Subsec. (b). Pub. L. 105–383, § 201(b), inserted before period at end “‘, unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay’”.

Subsec. (d). Pub. L. 105–383, § 201(a), struck out at end “‘However, no person is entitled to severance pay under this section in an amount that is more than $15,000.’”

1994—Subsec. (a). Pub. L. 103–337 substituted “section 580(a)(4)(A) of title 10” for “section 564(a)(3) of title 10 (as in effect on the day before the effective date of the Warrant Officer Management Act)”.

1991—Subsec. (a). Pub. L. 102–190 inserted “‘(as in effect on the day before the effective date of the Warrant Officer Management Act)’ after “section 564(a)(3) of title 10’”.

EFFECTIVE DATE OF 2002 AMENDMENT

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

EFFECTIVE DATE OF 1991 AMENDMENT

EFFECTIVE DATE
Section effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of Title 10, Armed Forces.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT
For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96–513, and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96–513, see section 601 et seq. of Pub. L. 96–513, set out as a note under section 611 of Title 10, Armed Forces.

§ 287. Separation for failure of selection for promotion or continuation; time of
If, under section 282, 283, 284, 285, 289, or 290 of this title, the discharge or retirement of any officer would be required less than six months following approval of the report of the board which considered but did not select him for promotion or continuation, the discharge or retirement of such officer shall be deferred until the last day of the sixth calendar month after such approval.


AMENDMENTS

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

§ 288. Regular captains; retirement
(a) Each officer of the Regular Coast Guard serving in the grade of captain whose name is not carried on an approved list of officers selected for promotion to the grade of rear admiral (lower half) shall, unless retired under some other provision of law, be retired on June 30 of the promotion year in which he, or any captain junior to him on the active duty promotion list who has not lost numbers or precedence, completes thirty years of active commissioned service in the Coast Guard. An officer advanced in precedence on the active duty promotion list because of his promotion resulting from selection for promotion from below the zone is not subject to involuntary retirement under this section earlier than if he had not been selected from below the zone.

(b) Retired pay computed under section 423(a) of this title of an officer retired under this section shall not be less than 50 percent of the basic pay upon which the computation of his retired pay is based.


AMENDMENTS

Subsec. (b). Pub. L. 99–948 substituted “‘Retired pay computed under section 423(a) of this title’” for “‘Except as provided in section 423(b) of this title, the retired pay’”.


1980—Subsec. (b). Pub. L. 96–342 substituted “‘Except as provided in section 423(b)’” for “‘Notwithstanding section 423(b)’”.


1974—Subsec. (a). Pub. L. 93–283 prohibited an involuntary retirement under this section of an officer advanced in precedence on the active duty promotion list because of his promotion resulting from selection for promotion from below the zone earlier than if he had not been selected from below the zone.

EFFECTIVE DATE OF 1974 AMENDMENT

RETIREMENT, RETIRED PAY, AND ELECTION OF ANNUITY AS AFFECTED BY PUB. L. 88–130
Savings provisions in section 5(f)–(h) of Pub. L. 88–130 relating to retirement, retirement pay, and election, change or revocation of election of an annuity, are set out as a note under section 211 of this title.

INTERIM AUTHORITY FOR SELECTION OF COMMANDERS AND CAPTAINS FOR CONTINUATION ON ACTIVE DUTY
Section 3(a) of Pub. L. 88–130 excluded officers subject to retirement under this section during the fiscal year the selection board convened from being continued on active duty.
§ 289. Captains; continuation on active duty; involuntary retirement

(a) The Secretary may, whenever the needs of the service require, but not more often than annually, convene a board consisting of not less than six officers of the grade of rear admiral (lower half) or rear admiral to recommend for continuation on active duty officers on the active duty promotion list serving in the grade of captain, who during the promotion year in which the board meets will complete at least three years' service in that grade and who have not been selected for promotion to the grade of rear admiral (lower half). Officers who are subject to retirement under section 288 of this title during the promotion year in which the board meets shall not be considered by this board.

(b) Whenever he convenes a board under this section, the Secretary shall establish a continuation zone. The zone shall consist of the most senior captains eligible for consideration for continuation on active duty who have not previously been placed in a continuation zone under this section. The Secretary shall, based upon the needs of the service, prescribe the number of captains to be included in the zone.

(c) Based on the needs of the service the Secretary shall furnish the board with the number of officers that may be recommended for continuation on active duty. This number shall be no less than 50 percent of the number considered. The board shall select from the designated continuation zone, in the number directed by the Secretary, those officers who are, in the opinion of the board, best qualified for continuation on active duty.

(d) The provisions of sections 253, 254, 258, and 260 of this title relating to selection for promotion shall, to the extent that they are not inconsistent with the provisions of this section, apply to boards convened under this section.

(e) The Secretary shall prescribe by regulation the detailed procedures whereby officers in a continuation zone will be selected for continuation on active duty.

(f) A board convened under this section shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in revision and resubmission to the Secretary. After his final review the Secretary shall submit the report of the board to the President for his approval. Except as required by the procedures of this section, the proceedings of the board shall not be disclosed to any person not a member of the board.

(g) Each officer who is considered but not recommended for continuation on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on June 30 of the promotion year in which the report of the continuation board convened under this section is approved, or the last day of the month in which he completes twenty years of active service, whichever is later.

(h) Notwithstanding subsection (g) and section 288 of this title, the Commandant may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (g) or section 288 of this title. An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in which no action is taken to further retain the officer under this subsection.


AMENDMENTS

1996—Subsec. (f). Pub. L. 104–324 struck out “Upon approval by the President, the names of the officers selected for continuation on active duty by the board shall be promptly disseminated to the service at large.” after “for his approval.”
1983—Subsec. (a). Pub. L. 97–305 substituted “commodore or rear admiral” for “rear admiral” after “six officers of the grade of rear admiral” and “commodore” for “rear admiral.” After promotion to the grade of rear admiral the most senior officers on the active duty promotion list serving in the grade of rear admiral (lower half) or rear admiral who have not previously been considered for continuation in that grade. Officers, other than the Commandant, serving for the time being or who have served in the grade of vice admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued at the grade of rear admiral. A board

§ 290. Rear admirals and rear admirals (lower half); continuation on active duty; involuntary retirement

(a) The Secretary shall from time to time convene boards to recommend for continuation on active duty the most senior officers on the active duty promotion list serving in the grade of rear admiral (lower half) or rear admiral who have not previously been considered for continuation in that grade. Officers, other than the Commandant, serving for the time being or who have served in the grade of vice admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued at the grade of rear admiral. A board
shall consist of at least five officers serving in the grade of vice admiral or as rear admirals previously continued. Boards shall be convened frequently enough to assure that each officer serving in the grade of rear admiral (lower half) or rear admiral is subject to consideration for continuation during a promotion year in which that officer completes not less than four or more than five years combined service in the grades of rear admiral (lower half) and rear admiral.

(b) The Secretary shall, based upon the needs of the service, furnish each board convened under this section with the number of officers to be considered for continuation on active duty. The number that may be recommended for continuation shall be not less than 50 per centum or more than 75 per centum of the number of officers being considered for continuation.

(c) The provisions of sections 253, 254, 258, and 260 of this title relating to selection and continuation boards shall to the extent they are not inconsistent with the provisions of this section, apply to boards convened under this section.

(d) A board convened under this section shall submit its report to the Secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in revision and resubmission to the Secretary. After final review the Secretary shall submit the report of the board to the President for approval.

(e) Each officer who is considered but not continued on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on July 1 of the promotion year immediately following the promotion year in which the report of the continuation board convened under this section is approved.

(f)(1) Unless retired under another provision of law, each officer who is continued on active duty under the provisions in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes seven years of combined service in the grades of rear admiral (lower half) and rear admiral, unless that officer is selected for or serving in the grade of admiral or vice admiral or in the position of Superintendent of the Coast Guard Academy.

(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.


AMENDMENTS

2010—Subsec. (a). Pub. L. 111–281 substituted “Officers, other than the Commandant, serving for the time being or who have served in the grade of vice admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued at the grade of rear admiral.” for “Officers serving for the time being or who have served in the grade of vice admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued in the grade of rear admiral.”

1993—Subsec. (a). Pub. L. 103–206, § 205(d)(1), struck out “or in the position of Chief of Staff” before “are not subject to” in second sentence.

Subsec. (f). Pub. L. 103–206, § 205(d)(2), (3), struck out “Chief of Staff or” before “Superintendent” in pars. (1) and (2).


Subsec. (d). Pub. L. 102–241, § 5(b)(2), struck out “his” before “final review” and “approval”.

Subsec. (e). Pub. L. 102–241, § 5(a)(1), substituted “July 1 of the promotion year immediately following” for “June 30 of”.

Subsecs. (f) and (g). Pub. L. 102–241, § 5(a)(2), added subsecs. (f) and (g) and struck out former subsecs. (f) and (g), which read as follows:

“(f) Each officer who is continued on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on June 30 of the promotion year in which he completes a total of thirty-six years of active commissioned service, including service creditable for retirement purposes under sections 422, 431, 434 of this title.

“(g) Notwithstanding subsection (f) of this section, the Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (f). An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in which no action is taken to further retain him under this subsection.”


years of which shall have been active commissioned service, may, upon his own application, in the discretion of the President, be retired from active service.


AMENDMENTS

1986—Pub. L. 99–348 struck out ‘‘with retired pay of the grade with which retired’’ after ‘‘from active service’’.

Retired Pay on Or Prior to September 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

§ 292. Voluntary retirement after thirty years’ service

Any regular commissioned officer who has completed thirty years’ service may, upon his own application, in the discretion of the Secretary, be retired from active service.1


AMENDMENTS

1986—Pub. L. 99–348 which directed that ‘‘, with retired pay of the grade with which retired’’ be struck out was executed by striking out that phrase after ‘‘from active service’’ as the probable intent of Congress even though there was no comma, before ‘‘with retired’’.

Retired Pay on Or Prior to September 24, 1963

Savings provisions in section 5(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

§ 293. Compulsory retirement

(a) Regular commissioned officers.—Any regular commissioned officer, except a commissioned warrant officer, serving in a grade below rear admiral (lower half) shall be retired on the first day of the month following the month in which the officer becomes 62 years of age.

(b) Flag-Officer Grades.—(1) Except as provided in paragraph (2), any regular commissioned officer serving in a grade of rear admiral (lower half) or above shall be retired on the first day of the month following the month in which the officer becomes 64 years of age.

(2) The retirement of an officer under paragraph (1) may be deferred—

(A) by the President, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 68 years of age; or

(B) by the Secretary of the department in which the Coast Guard is operating, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 66 years of age.


1 See 1986 Amendment note below.
§ 294. Retirement for physical disability after selection for promotion; grade in which retired

An officer whose name appears on an approved list of officers selected for promotion to the next higher grade and who is retired for physical disability under the provisions of chapter 61 of title 10 prior to being promoted shall be retired in the grade to which he was selected for promotion.


Retired Pay on or Prior to September 24, 1963

Savings provisions in section 8(g) of Pub. L. 88–130 providing that Pub. L. 88–130 does not affect the retired pay of anyone retired on or prior to Sept. 24, 1963, are set out as a note under section 211 of this title.

§ 295. Deferment of retirement or separation for medical reasons

(a) Subject to subsection (b), the Secretary may defer the retirement or separation of a commissioned officer, other than a commissioned warrant officer, if the evaluation of the physical condition of the officer and determination of the officer’s entitlement to retirement or separation for physical disability require hospitalization, medical observation, or other physical disability processing that cannot be completed before the date on which the officer would otherwise be retired or separated.

(b) A deferment under subsection (a)—

(1) may only be made with the consent of the officer involved; and

(2) if the Secretary receives written notice from the officer withdrawing that consent, shall end not later than the end of the sixty-day period beginning on the date the Secretary receives that notice.


Section 301, act Aug. 4, 1949, ch. 393, 63 Stat. 518, related to permanent appointment of warrant officers. See section 571 et seq. of Title 10, Armed Forces.


Section 303, act Aug. 4, 1949, ch. 393, 63 Stat. 518, required compulsory retirement of warrant officers reaching age of sixty-two years, with retired pay of grade with which retired.

Section 304, act Aug. 4, 1949, ch. 393, 63 Stat. 518, provided for voluntary retirement of warrant officers after thirty years’ service, with retired pay of grade with which retired.

Section 305, act Aug. 4, 1949, ch. 393, 63 Stat. 518, provided for voluntary retirement after twenty years’ service, with retired pay of grade with which retired.

Additional Repeal

Sections were also repealed by Pub. L. 88–130, §1(10)(A), Sept. 24, 1963, 77 Stat. 177.


Section, act Aug. 4, 1949, ch. 393, 63 Stat. 519, related to retirement for disabilities incident to service. See sections 1024 and 1376 of Title 10, Armed Forces.

Additional Repeal

Section was also repealed by Pub. L. 88–130, §1(10)(A), Sept. 24, 1963, 77 Stat. 177.


Section 307, act Aug. 4, 1949, ch. 393, 63 Stat. 519, provided for compulsory retirement of warrant officers after thirty years’ service, upon recommendation of a personnel board.

Section 308, act Aug. 4, 1949, ch. 393, 63 Stat. 519, provided for retired pay of warrant officers involuntarily retired under section 307.

Additional Repeal

Sections were also repealed by Pub. L. 88–130, §1(10)(A), Sept. 24, 1963, 77 Stat. 177.


Effective Date of Repeal

Repeal of section effective November 1, 1959, see section 10(b) of Pub. L. 86–155, set out as a note under section 239 of this title.

Additional Repeal

Section was also repealed by Pub. L. 88–130, §1(10)(A), Sept. 24, 1963, 77 Stat. 177.


Section 310, acts Aug. 4, 1949, ch. 393, 63 Stat. 519; Aug. 3, 1950, ch. 536, §12, 64 Stat. 407, related to recall to active duty during war or national emergency of warrant officers. See section 331 of this title.


Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 520; Aug. 3, 1950, ch. 536, §15, 64 Stat. 407, provided that any warrant officer who was retired under sections 303 to 305 or 307 of this title should be retired from active service with the highest grade held by him in which his performance of duty was satisfactory, but not lower than his permanent grade, with retired pay of the grade with which retired. It implemented such sections 303 to 305 and 307 which were also repealed by act May 29, 1954. See notes under those former sections.

Additional Repeal

Section was also repealed by Pub. L. 88–130, §1(10)(A), Sept. 24, 1963, 77 Stat. 177.
§ 321. Review of records of officers

The Secretary may at any time convene a board of officers to review the record of any officer of the Regular Coast Guard to determine whether he shall be required to show cause for his retention on active duty—

(1) because his performance of duty has fallen below the standards prescribed by the Secretary, or

(2) because of moral dereliction, professional dereliction, or because his retention is not clearly consistent with the interests of national security.


§ 322. Boards of inquiry

(a) Boards of inquiry shall be convened at such places as the Secretary may prescribe to receive evidence and make findings and recommendations whether an officer who is required to show cause for retention under section 321 of this title should be retained on active duty.

(b) A fair and impartial hearing before a board of inquiry shall be given to each officer so required to show cause for retention.

(c) If a board of inquiry determines that the officer has failed to establish that he should be retained, it shall send the record of its proceedings to a board of review.

(d) If a board of inquiry determines that the officer has established that he should be retained, his case is closed. However, at any time after one year from the date of the determination in a case arising under clause (1) of section 321 of this title, and at any time after the date of the determination in a case arising under clause (2) of that section, an officer may again be required to show cause for retention.


AMENDMENTS


§ 324. Composition of boards

(a) A board convened under section 321, 322, or 323 of this title shall consist of at least three officers of the grade of commander or above, all of whom are serving in a grade senior to the grade of any officer considered by the board.

(b) No person may be a member of more than one board convened under section 321, 322, or 323 of this title to consider the same officer.


§ 325. Rights and procedures

Each officer under consideration for removal under section 322 of this title shall be—

(1) notified in writing at least thirty days before the hearing of the case by a board of inquiry of the reasons for which the officer is being required to show cause for retention;

(2) allowed reasonable time, as determined by the board of inquiry under regulations of the Secretary, to prepare his defense;

(3) allowed to appear in person and by counsel at proceedings before a board of inquiry; and

(4) allowed full access to, and furnished copies of, records relevant to the case at all stages of the proceeding, except that a board shall withhold any records that the Secretary determines should be withheld in the interests of national security. In any case where any records are withheld under this clause, the officer whose case is under consideration shall, to the extent that the national security permits, be furnished a summary of the records so withheld.


§ 326. Removal of officer from active duty; action by Secretary

The Secretary may remove an officer from active duty if his removal is recommended by a board of review under section 323 of this title. The Secretary’s action in such case is final and conclusive.
§ 327. Officers considered for removal; retirement or discharge; separation benefits

(a) At any time during proceedings under section 322 or 323 of this title, and before the removal of an officer, the Secretary may grant a request—

(1) for voluntary retirement, if the officer is otherwise qualified therefor; or

(2) for discharge with separation benefits under section 286(c) of this title.

(b) Each officer removed from active duty under section 326 of this title shall—

(1) if on the date of removal the officer is eligible for voluntary retirement under any law, be retired in the grade for which he would be eligible if retired at his request; or

(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged with separation benefits under section 286(c) of this title, unless under regulations promulgated by the Secretary the conditions under which the officer is discharged does not warrant an honorable discharge.


AMENDMENTS


Subsec. (a)(2). Pub. L. 107–295, §416(a)(5)(B), added par. (2) and struck out former par. (2) which read as follows: ‘‘for honorable discharge with severance benefits under subsection (b) in those cases arising under clause (1) of section 321 of this title; or’’.

Subsec. (a)(3). Pub. L. 107–295, §416(a)(5)(C), struck out par. (3) which read as follows: ‘‘for discharge with severance benefits under subsection (b) in those cases arising under clause (2) of section 321 of this title;’’.

Subsec. (b)(2). Pub. L. 107–295, §416(a)(5)(D), added par. (2) and struck out former par. (2) which read as follows: ‘‘if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month’s basic pay of that grade, in those cases arising under clause (1) of section 321 of this title; or’’.

Subsec. (b)(5). Pub. L. 107–295, §416(a)(5)(E), struck out par. (3) which read as follows: ‘‘if on that date the officer is ineligible for voluntary retirement under any law, be discharged in the grade then held with severance pay computed by multiplying his years of active commissioned service, but not more than twelve, by one month’s basic pay of that grade, in those cases arising under clause (2) of section 321 of this title, unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay.’’

1998—Subsec. (b)(3). Pub. L. 105–383 inserted before period at end ‘‘, unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay’’.

1986—Subsec. (b)(1). Pub. L. 99–348 struck out ‘‘, and with the pay’’ after ‘‘in the grade’’.

§ 331. Recall to active duty during war or national emergency

In time of war or national emergency, the Secretary may order any regular officer on the retired list to active duty.


DELEGATION OF AUTHORITY

For delegation of authority under this section, as invoked by section 2 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 62301, as amended, to Secretary of Homeland Security when Coast Guard is not serving as part of Navy, see section 5 of Ex. Ord. No. 13223, set out as a note under section 12302 of Title 10, Armed Forces.

§ 332. Recall to active duty with consent of officer

(a) Any regular officer on the retired list may, with that officer’s consent, be assigned to such duties as that officer may be able to perform.

(b) The number of retired officers on active duty in the grade of lieutenant commander, commander, or captain shall not exceed 2 percent of the authorized number of officers on active duty in each such grade. However, this limitation does not apply to retired officers of these grades recalled to serve as members of courts, boards, panels, surveys, or special projects for periods not to exceed one year.


AMENDMENTS

1991—Subsec. (a). Pub. L. 102–241, §14(b), substituted ‘‘that officer’s’’ for ‘‘his’’ and ‘‘that officer’’ for ‘‘he’’.

Subsec. (b). Pub. L. 102–241, §14(a), substituted ‘‘2’’ for ‘‘1’’.

1979—Subsec. (a). Pub. L. 91–278 struck out prohibition against recall to duty in time of peace of any officer on retired list who reached age of sixty-two years.

1966—Subsec. (b). Pub. L. 89–444 provided that the percentage limitation on the number of retired officers on active duty in the grade of lieutenant commander, commander, or captain should not apply to retired officers of those grades recalled to serve as members of courts, boards, panels, surveys, or special projects for periods not to exceed one year.

§ 333. Relief of retired officer promoted while on active duty

Any regular officer on the retired list recalled to active duty who during such active duty is advanced to a higher grade under an appointment shall, upon relief from active duty, if his performance of duty under such appointment has been satisfactory, be advanced on the retired list to the highest grade held while on such active duty.
§ 334. Grade on retirement

(a) Any commissioned officer, other than a commissioned warrant officer, who is retired under any provision of this title, shall be retired from active service with the highest grade held by him for not less than six months while on active duty in which, as determined by the Secretary, his performance of duty was satisfactory.

(b) Any warrant officer who is retired under any provision of section 580, 1283, 1293, or 1305 of title 10, shall be retired from active service with the highest commissioned grade above chief warrant officer, W-4, held by him for not less than six months on active duty in which, as determined by the Secretary, his performance of duty was satisfactory.


§ 336. United States Coast Guard Band; composition; director

(a) The United States Coast Guard Band shall be composed of a director and other personnel in such numbers and grades as the Secretary determines to be necessary.

(b) The Secretary may designate as the director any individual determined by the Secretary to possess the necessary qualifications. Upon the recommendation of the Secretary, an individual so designated may be appointed by the President, by and with the advice and consent of the Senate, to a commissioned grade in the Regular Coast Guard.

(c) The initial appointment to a commissioned grade of an individual designated as director of the Coast Guard Band shall be in the grade determined by the Secretary to be most appropriate to the qualifications and experience of the appointed individual.

(d) An individual who is designated and commissioned under this section shall not be included on the active duty promotion list. He shall be promoted under section 276 of this title. However, the grade of the director may not be higher than captain.

(e) The Secretary may revoke any designation as director of the Coast Guard Band. When an individual’s designation is revoked, his appointment to commissioned grade under this section terminates and he is entitled, at his option—

(1) to be discharged from the Coast Guard; or

(2) to revert to the grade and status he held at the time of his designation as director.

Guard is operating to be most appropriate to the qualifications and experience of that individual.”

ENLISTED MEMBERS

AMENDMENTS


§ 350. Recruiting campaigns

The Secretary shall initiate and carry forward an intensified voluntary enlistment campaign to obtain the required personnel strengths.

(Added Aug. 10, 1956, ch. 1041, §7(a), 70A Stat. 620.)

HISTORICAL AND REVISION NOTES

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§ 351. Enlistments; term, grade

(a) Under regulations prescribed by the Secretary, the Commandant may enlist persons for minority or a period of at least two years but not more than six years.

(b) The Secretary shall prescribe the grades or ratings for persons enlisting in the Regular Coast Guard.


HISTORICAL AND REVISION NOTES

1949 ACT

Based on title 14, U.S.C., 1946 ed., §§35, 35a, 206 (May 26, 1906, ch. 2558, §1, 34 Stat. 206, Jan. 28, 1915, ch. 20, §1, 38 Stat. 496; Apr. 21, 1929, ch. 130, §8, 45 Stat. 196; July 30, 1937, ch. 411, §2, 50 Stat. 547, July 11, 1941, ch. 290, §4, 55 Stat. 566; Aug. 18, 1941, ch. 364, §3, 55 Stat. 629). Section 35 of title 14, U.S.C., 1946 ed., has been divided. The provisions of the first sentence of subsection (a) are placed in this section. The proviso of subsection (a) is covered in section 367(b) of this title. Subsection (b) is placed in section 365 of this title. Subsections (c) and (d) are placed in section 367(a) of this title, except that part (3) of subsection (c) is covered by section 386 of this title. Section 206 of title 14, U.S.C., 1946 ed., has been divided. That part dealing with special temporary enlistments is incorporated in this section. That part dealing with temporary appointments of warrant officers is placed in section 392 of this title. Certain additional details concerning the two types of enlistments are added; these details were previously covered in Coast Guard Regulations. This section makes provision for the enlistment of personnel in the Coast Guard. The first sentence grants the necessary authority to the Secretary, changes existing law in regard to the term of enlistment from “not to exceed four years” to “not to exceed six years”, and adds a provision for the enlistment of minors for their minority only, such provision being in accordance with existing law applicable to the Navy. The next three sentences establish and define the two types of enlistments that are now in effect in the Coast Guard, setting forth the basic difference in the two types. The last sentence continues a provision to the effect that original enlistments in the Coast Guard shall be temporary. This section is a combination of existing law and regulations in regard to enlistments, with changes as noted above. See title 14, U.S.C., 1946 ed., §§35, and Coast Guard Regulations, sections 351 and 352. 81st Congress, House Report No. 557.

1956 ACT

14:351
34:188 (as made applicable to Coast Guard by §34189).
34:189 (as applicable to 34:188).

The words “notwithstanding any other provision of law” and “or reenlisted” are omitted as surplusage. 34 U.S.C. 188 (proviso) is omitted as executed.

HISTORICAL AND REVISION NOTES


1950—Act Aug. 3, 1950, struck out references to two types of enlistments that were deemed necessary prior to the enactment of the Career Compensation Act.

§ 352. Promotion

Enlisted members shall be advanced in rating by the Commandant under regulations prescribed by the Secretary.


HISTORICAL AND REVISION NOTES

Derived from title 14, U.S.C., 1946 ed., §23 (Apr. 16, 1908, ch. 145, §§8, 35 Stat. 62). Inasmuch as all phases of promotion of enlisted men, except the points covered by title 14, U.S.C., 1946 ed., §23, have been left to administrative control here-tofore, and this has proved most satisfactory, the entire promotion of enlisted men is delegated to administrative control by this section. 81st Congress, House Report No. 557.

AMENDMENTS


§ 353. Compulsory retirement at age of sixty-two

Any enlisted member who has reached the age of sixty-two shall be retired from active service.


HISTORICAL AND REVISION NOTES

§ 354. Voluntary retirement after thirty years' service

Any enlisted member who has completed thirty years' service may, upon his own application, in the discretion of the Commandant, be retired from active service.


HISTORICAL AND REVISION NOTES


Said section has been divided. That part dealing with retirement of enlisted men is placed in this section. That part dealing with retirement of commissioned officers is placed in section 231 of this title. That part dealing with retirement of warrant officers is placed in section 303 of this title. That part providing for assignment of duties to retired personnel is incorporated in sections 241, 311, and 360 of this title.

The authority to approve was granted to the Commandant in lieu of the Secretary. 81st Congress, House Report No. 557.

AMENDMENTS

1986—Pub. L. 99–348 struck out ‘‘, with retired pay of the grade or rating with which retired’’ after ‘‘active service’’.


§ 355. Voluntary retirement after twenty years' service

Any enlisted member who has completed twenty years' service may, upon his own application, in the discretion of the Commandant, be retired from active service.


HISTORICAL AND REVISION NOTES


Said section has been divided. That part dealing with retirement of enlisted men is placed in this section. That part dealing with retirement of commissioned officers is placed in section 231 of this title. That part dealing with retirement of warrant officers is placed in section 303 of this title. That part providing for assignment of duties to retired personnel is incorporated in sections 241, 311, and 360 of this title.

The authority to approve was granted to the Commandant in lieu of the Secretary. 81st Congress, House Report No. 557.

AMENDMENTS

1986—Pub. L. 99–348 struck out ‘‘, with retired pay of the grade or rating with which retired’’ after ‘‘active service’’.


SECTION


Section, act Aug. 4, 1949, ch. 393, 63 Stat. 521, related to retirement for disabilities incident to service. See sections 1204 and 1376 of Title 10, Armed Forces.

§ 357. Involuntary retirement of enlisted members

(a) Enlisted Personnel Boards shall be convened as the Commandant may prescribe to review the records of enlisted members who have twenty or more years of active military service.

(b) Enlisted members who have twenty or more years of active military service may be considered by the Commandant for involuntary retirement and may be retired on recommendation of a Board—

(1) because the member's performance is below the standards the Commandant prescribes; or

(2) because of professional dereliction.

(c) An enlisted member under review by the Board shall be—

(1) notified in writing of the reasons the member is being considered for involuntary retirement;

(2) allowed sixty days from the date on which counsel is provided under paragraph (3) to submit any matters in rebuttal;

(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2) and to represent the member before the Board under paragraph (5);

(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2); and

(5) allowed to appear before the Board and present witnesses or other documentation related to the review.

(d) A Board convened under this section shall consist of at least three commissioned officers, at least one of whom shall be of the grade of commander or above.

(e) A Board convened under this section shall recommend to the Commandant enlisted members who—

(1) have twenty or more years of active service;

(2) have been considered for involuntary retirement; and

(3) it determines should be involuntarily retired.

(f) After the Board makes its determination, each enlisted member the Commandant considers for involuntary retirement shall be—

(1) notified by certified mail of the reasons the member is being considered for involuntary retirement;

(2) allowed sixty days from the date on which counsel is provided under paragraph (3) to submit any matters in rebuttal;

(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2) and to represent the member before the Board under paragraph (5);

(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2); and

(g) If the Commandant approves the Board's recommendation, the enlisted member shall be notified of the Commandant's decision and shall
be retired from the service within ninety days of the notification.

(h) An enlisted member, who has completed twenty years of service and who the Commandant has involuntarily retired under this section, shall receive retired pay.

(i) An enlisted member voluntarily or involuntarily retired after twenty years of service who was cited for extraordinary heroism in the line of duty shall be entitled to an increase in retired pay. The retired pay shall be increased by 10 percent of—

1. the active-duty pay and permanent additions thereto of the grade or rating with which retired when the member's retired pay is computed under section 423(a) of this title; or
2. the member's retired pay base under section 423(b) of this title, when a member's retired pay is computed under section 423(b) of this title.

(j) When the Secretary orders a reduction in force, enlisted personnel may be involuntarily separated from the service without the Board's action.


HISTORICAL AND REVISION NOTES

Subsection (b) is new and implements the preceding subsection; it seems necessary in view of certain statutes enacted as the result of World War II.

Subsection (c) is based on title 14, U.S.C., 1946 ed., §185d (May 24, 1939, ch. 146, §5, 3 Stat. 756). Said section has been divided. The first sentence is incorporated in section 423 of this title. The second provision is incorporated in section 424 of this title. The remainder is placed in this subsection.

Changes were made in phraseology. 81st Congress, House Report No. 507.

AMENDMENTS
1991—Pub. L. 102–241 substituted “Involuntary retirement of enlisted members” for “Enlisted Personnel Board” in section catchline and amended text generally. Prior to amendment, text provided that the Commandant assemble annually a Coast Guard Enlisted Personnel Board to recommend enlisted members for retirement, that the recommendations be transmitted to the Commandant for approval, in which event the enlisted members concerned would be notified and given opportunity to file a written protest, which would require a subsequent annual Board determination and approval by the Commandant to effect the involuntary retirement of that member, and further provided that an enlisted member with twenty years' service retired from active duty by the Commandant pursuant to this section was to receive retired pay, and that an enlisted member voluntarily or involuntarily retired by reason of twenty years' service who had been cited for extraordinary heroism was entitled to an increase in retired pay.

1996—Subsec. (b), Pub. L. 99–348, §205(b)(9)(A), substituted “retired pay” for “the retired pay of the grade or rating with which retired”.
Subsec. (c), Pub. L. 99–348, §205(b)(9)(B), substituted provision that retired pay be increased by an amount equal to 10 percent of the active-duty pay and permanent additions thereto of the grade or rating with which retired, in the case of a member whose retired pay is computed under 423(a) of this title, or the member's retired pay base under section 1407 of title 10, in the case of a member whose retired pay is computed under section 423(b) of this title for provision that the retired pay be increased by an amount equal to 10 percent of the retired pay of the grade or rating with which retired.

1963—Subsec. (a), Pub. L. 88–114 struck out provisions which entitled enlisted men whose average marks in conduct were not less than 97 percent of the maximum to a 10 percent increase of their retired pay.

1950—Subsec. (c). Act Aug. 3, 1950, substituted “years” for “years”.

SERVICE CREDIT FOR CERTAIN ENLISTED PERSONNEL
Act June 3, 1948, ch. 394, 62 Stat. 302, provided: “That those enlisted men of the Coast Guard who, during 1940 and 1941, were discharged from the Coast Guard to accept employment as policemen and guards at the Ivigtut Cryolite Mine, Greenland, and who reenlisted in the Coast Guard within three months after the termination of their service as such policemen and guards, shall be credited with the time between discharge and reenlistment for purposes of longevity pay and retirement, but no increased retroactive pay shall accrue by reason of the enactment of this Act.”

ENLISTED MEN IN SERVICE ON SEPTEMBER 6, 1963
Pub. L. 88–114, §2, Sept. 6, 1963, 77 Stat. 144, provided that: “The amendment made by subsection (1) of section 1 of this Act [amending this section] does not apply to any enlisted man in service on the effective date of this Act [Sept. 6, 1963].”

§ 360. Recall to active duty with consent of member

Any enlisted member on the retired list may, with his consent, be assigned to such duties as he may be able to perform, except that no enlisted member on the retired list who has reached the age of sixty-two years shall be recalled in time of peace.


HISTORICAL AND REVISION NOTES


This section was changed so as to make provisions for enlisted men parallel to similar provisions for commissioned and warrant officers (see §§241 and 311 of the revised title). It seems fair and equitable that similar provisions should apply to all classes of personnel insofar as practicable. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 substituted “member” for “man” in section catchline, and in text substituted reference to enlisted member for reference to enlisted man in two places.

1950—Act Aug. 3, 1950, struck out all references to pay.

§ 361. Relief of retired enlisted member promoted while on active duty

Any enlisted member on the retired list recalled to active duty who during such active duty is advanced to a higher grade or rating under a permanent or temporary appointment or promotion shall, upon relief from active duty be advanced on the retired list to the highest grade or rating held while on active duty. In case the appointment or promotion was temporary the advancement on the retired list shall be made only to such grade or rating in which the member served satisfactorily on active duty.


HISTORICAL AND REVISION NOTES

Derived from title 34, U.S.C., 1946 ed., §§3501(a) and (b), 350j (July 24, 1941, ch. 320, §10, 55 Stat. 605; Feb. 21, 1946, ch. 34, §8(a), 60 Stat. 28).

Said sections have application to officers only, but in accord with the general plan to make as many provisions as possible applicable both to officers and men, it seems highly desirable to provide similarly for enlisted men— a fortiori because there are cases in the Coast Guard in which enlisted men are suffering inequitably because there is no provision for advancing men on the retired list after they have been advanced in rating while serving on active duty after recall from the retired list. 81st Congress, House Report No. 557.

AMENDMENTS

1984—Pub. L. 98–557 in section catchline substituted “enlisted member” for “man”, and in two places in text substituted “member” for “man”.

1950—Act Aug. 3, 1950, struck out all references to pay.

§ 362. Retirement in cases where higher grade or rating has been held

Any enlisted member who is retired under any provision of section 353, 354, 355, or 357 of this title shall be retired from active service with the highest grade or rating held by him while on active duty in which, as determined by the Secretary, his performance of duty was satisfactory, but not lower than his permanent grade or rating.


HISTORICAL AND REVISION NOTES


The requirement that the higher grade or rating be held prior to June 30, 1946, has been eliminated; this seems to be in line with the intent of Congress as expressed in section 303 of the act of June 29, 1948, ch. 706, 62 Stat. 1881. The act of July 24, 1941, 55 Stat. 605, was enacted primarily for application to Navy personnel but it is made applicable to Coast Guard personnel by its own terms (see title 34, U.S.C., 1946 ed., §350j(b)).


AMENDMENTS

1986—Pub. L. 99–348 struck out “, with retired pay of the grade or rating with which retired” after “permanent grade or rating”.


1982—Pub. L. 97–285 substituted “of this title” for “of this chapter” after “307”.


Section 363, act Aug. 4, 1949, ch. 393, 63 Stat. 523, related to retiring or dropping for disabilities not incident to service. See section 1207 of Title 10, Armed Forces.

Section 364, act Aug. 4, 1949, ch. 393, 63 Stat. 523, related to dropping for disabilities due to vicious habits. See section 1207 of Title 10.

§ 365. Extension of enlistments

Under regulations prescribed by the Secretary, the term of enlistment of any enlisted member may, by voluntary written agreement, be extended and re-extended for a period not exceeding six full years from the date of expiration of the then-existing term of enlistment, and subsequent to such date an enlisted member who so extends his term of enlistment shall receive the same pay and allowances in all respects as though regularly discharged and reenlisted immediately upon expiration of his term of enlistment. However, the total of all such extensions of an enlistment may not exceed six years. No such extension shall operate to deprive the enlisted member concerned, upon discharge at the termination thereof, of any right, privilege, or benefit to which he would have been entitled if his term of enlistment had not been so extended.
§ 366. Retention beyond term of enlistment in case of disability

Any enlisted member of the Coast Guard in the active service whose term of enlistment expires while he is suffering disease or injury incident to service and not due to misconduct, and who is in need of medical care or hospitalization, may, with his consent, be retained in such service beyond the expiration of his term of enlistment. Any such enlisted member shall be entitled to receive at Government expense medical care or hospitalization and his pay and allowances, including credit for longevity, until he shall have recovered to such extent as would enable him to meet the physical requirements for reenlistment, or until it shall have been ascertained by competent authority of the Coast Guard that the disease or injury is of a character that recovery to such an extent would be impossible. Any enlisted member whose enlistment is so extended shall be subject to forfeitures in the same manner and to the same extent as if his term of enlistment had not expired. Nothing contained in this section shall prevent any enlisted member from being held in the service without his consent under section 367 of this title.


HISTORICAL AND REVISION NOTES


said section has been divided. Subsection (b) is placed in this section. The provisions of the first sentence of subsection (a) are placed in section 351 of this title. The proviso of subsection (a) is covered in section 367(b) of this title. Subsections (c) and (d) and are placed in section 367(a) of this title, except that part (3) of subsection (c) is covered in section 366 of this title.

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

AMENDMENTS


1960—Pub. L. 86–474 increased maximum term for extension of a reenlistment period from four to six years.

§ 367. Detention beyond term of enlistment

Under regulations prescribed by the Secretary, an enlisted member may be detained in the Coast Guard beyond the term of his enlistment:

(1) until the first arrival of the vessel on which he is serving at its permanent station, or at a port in a State of the United States or in the District of Columbia; or

(2) if attached to a shore station beyond the continental limits of the United States or in Alaska, until his first arrival at a port in any State of the United States or in the District of Columbia where his reenlistment or discharge may be effected, or until he can be discharged or reenlisted at his station beyond the continental limits of the United States or in Alaska, whichever is earlier, but in no event to exceed three months; or

(3) during a period of war or national emergency as proclaimed by the President, and, in the interest of national defense, for a period not to exceed six months after the end of the war or the termination of the emergency; or

(4) for a period of not exceeding thirty days in other cases whether or not specifically covered by this section, when essential to the public interests, and the determination that such detention is essential to the public interests, made in accordance with regulations prescribed by the Secretary, shall be final and conclusive.

Any member detained in the Coast Guard as provided in this section shall be entitled to receive pay and allowances and benefits under the same conditions as though his enlistment period had not expired, and shall be subject in all respects to the laws and regulations for the government of the Coast Guard until his discharge therefrom. Enlisted members detained under the provisions of clause (1) shall be entitled to the pay and allowances provided for enlisted personnel of the Navy detained under similar circumstances.


HISTORICAL AND REVISION NOTES


Section 35 of title 14, U.S.C., 1946 ed., has been divided. The proviso of subsection (a) is covered by subsection (b) of this section. Subsections (c) and (d) are placed in subsection (a) of this section, except that part (3) of subsection (c) is covered in section 366 of this title.

The first sentence of subsection (a) is placed in section 351 of this title. Subsection (b) is placed in section 363 of this title.

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

AMENDMENTS

1984—Pub. L. 98–557 struck out subsec. ‘‘(a)’’ designation in provisions preceding cl. (1) substituted ‘‘enlisted member’’ for ‘‘enlisted man’’; and in provisions following cl. (4) substituted ‘‘member detained’’ for ‘‘person detained’’, ‘‘Enlisted members’’ for ‘‘Enlisted men’’, and ‘‘clause (1)’’ for ‘‘(1) of this subsection’’. 
1956—Subsec. (a). Act July 24, 1956, §§2(4), 3, repealed cl. (3) permitting detention of enlisted members beyond term of their enlistment while waiting disciplinary action or trial and disposition of their case, struck out provisions prohibiting payment of pay or allowances for any period beyond term of enlistment if trial of such members results in conviction, and redesignated cls. (4) and (5) as (3) and (4), respectively. See section 972(a) of Title 10, Armed Forces.

Subsecs. (b), (c). Act July 24, 1956, §2(4), repealed subsecs. (b) and (c) which required enlisted members to make good time lost by unauthorized absence from duty, or by confinement under sentence or pending trial, or by reason of sickness resulting from misconduct. See section 972(a) of Title 10.


DELIBERATION OF AUTHORITY

For delegation of authority under this section, as invoked by section 2 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, to Secretary of Homeland Security when Coast Guard is not serving as part of Navy, see section 5 of Ex. Ord. No. 13223, set out as a note under section 12302 of Title 10, Armed Forces.


Section, act Aug. 4, 1949, ch. 393, 63 Stat. 524, related to discharge in case of under-age enlistment.

§ 369. Inclusion of certain conditions in enlistment contract

The enlistment contract shall contain the substance of sections 365 to 368, inclusive, of this title.

(Aug. 4, 1949, ch. 393, 63 Stat. 524.)

HISTORICAL AND REVISION NOTES

It is believed desirable to have the provisions specified included in the enlistment contract, as they include certain privileges and obligations that any man should clearly understand before enlisting. 81st Congress, House Report No. 557.

§ 370. Discharge within three months before expiration of enlistment

Under regulations prescribed by the Secretary, any enlisted member may be discharged at any time within three months before the expiration of his term of enlistment or extended enlistment without prejudice to any right, privilege, or benefit that he would have received, except pay and allowances for the unexpired period not served, or to which he would thereafter become entitled, had he served his full term of enlistment or extended enlistment.


AMENDMENTS


§ 371. Aviation cadets; procurement; transfer

(a) The grade of aviation cadet is established as a special enlisted grade in the Coast Guard. Under such regulations as the Secretary prescribes, citizens in civil life may be enlisted as, and enlisted members of the Coast Guard with their consent may be designated as, aviation cadets.

(b) Except in time of war or national emergency declared by Congress, not less than 20 percent of the aviation cadets procured in each fiscal year shall be procured from qualified enlisted members of the Coast Guard.

(c) No persons may be enlisted or designated as an aviation cadet unless—

(1) the person agrees in writing that, upon successful completion of the course of training as an aviation cadet, the person will accept a commission as an ensign in the Coast Guard Reserve and will serve on active duty as such for at least three years, unless sooner released; and

(2) if under twenty-one years of age, the person has the consent of the person's parent or guardian to the agreement.

(d) Under such regulations as the Secretary prescribes, an aviation cadet may be transferred to another enlisted grade or rating in the Coast Guard, released from active duty, or discharged.


AMENDMENTS


Subsec. (c)(1). Pub. L. 98–557, §15(a)(1)(B), substituted “the person” for “he” in two places and struck out “his” after “upon”.

Subsec. (c)(2). Pub. L. 98–557, §15(a)(1)(C), substituted “the person” for “he”, “the person's” for “his”, and “the agreement” for “his agreement”.

1982—Subsec. (b). Pub. L. 97–295 substituted “percent” for “per centum”.

§ 372. Aviation cadets; benefits

Except as provided in section 402(c) of title 37, aviation cadets or their beneficiaries are entitled to the same allowances, pensions, gratuities, and other benefits as are provided for enlisted members in pay grade E–4. While on active duty, an aviation cadet is entitled to uniforms, clothing, and equipment at the expense of the United States.


§ 373. Aviation cadets; appointment as Reserve officers

(a) An aviation cadet who fulfills the eligibility requirements of section 2003 of title 10 for designation as a naval aviator may be appointed an ensign in the Coast Guard Reserve and designated a Coast Guard aviator.

(b) Aviation cadets who complete their training at approximately the same time are considered for all purposes to have begun their commissioned service on the same date, and the decision of the Secretary in this regard is conclusive.


AMENDMENTS

§ 374. Critical skill training bonus

(a) The Secretary may provide a bonus, not to exceed $20,000, to an enlisted member who completes training in a skill designated as critical, if at least four years of obligated active service remain on the member’s enlistment at the time the training is completed. A bonus under this section may be paid in a single lump sum or in periodic installments.

(b) If an enlisted member voluntarily or because of misconduct does not complete the member’s term of obligated active service, the Secretary may require the member to repay the United States, on a pro rata basis, all sums paid under this section. The Secretary may charge interest on the amount repaid at a rate, to be determined quarterly, equal to 150 percent of the average of the yields on the 91-day Treasury bills auctioned during the calendar quarter preceding the date on which the amount to be repaid is determined.


GENERAL PROVISIONS

§ 421. Retirement

(a) Every commissioned officer, warrant officer, or enlisted member who is retired under any provisions of this title shall be retired with the permanent grade or rate held at the time of retirement, unless entitled to retire with a higher grade or rate under any provision of this title or any other law.

(b) Where an officer is entitled, under any provision of law, to retire with one grade higher than the grade in which serving at the time of retirement, the next higher grade in the case of captain shall be rear admiral (lower half), and the next higher grade in the case of commissioned warrant officer shall be lieutenant (junior grade).


HISTORICAL AND REVISION NOTES

Subsection (a) is new in this form, but the provision contained therein is expressed or implied in numerous statutes relating to the retirement of military personnel.

A provision defining the next higher grade to that of commissioned warrant officer as lieutenant (junior grade), for purposes of retirement, was added.

The other provisions of said section are obsolete and are no longer needed.

Subsection (a) is new, but the provision contained in it is expressed or implied in numerous statutes relating to retirement of military personnel. It is believed desirable to include such a provision to prevent any misconstruction of retirement statutes, even though no change in existing law is intended on the point covered, either by other sections dealing with retirement or by this section.

Subsection (b) is a codification of the only provision of title 14, U.S.C. 1946 ed., §174, that it is desired to retain, and in addition designated the next higher grade for commissioned warrant officers as lieutenant (junior grade) because the pay of the commissioned warrant officer is the same as for the grade of lieutenant (junior grade) and advancing such officers to the grade of ensign would in some aspects not appear to be a promotion. 81st Congress, House Report No. 557.

AMENDMENTS


§ 422. Status of recalled personnel

All retired personnel when recalled to active duty shall serve in the grade or rate in which they were serving at the time of retirement.


HISTORICAL AND REVISION NOTES

This provision is desirable because many enlisted men and low-ranking officers may now retire with higher grade which they previously held on a temporary basis. If recalled in the higher grades, they might not be capable of holding same at the time of recall. 81st Congress, House Report No. 557.

AMENDMENTS


§ 423. Computation of retired pay

(a)(1) The retired pay of a member who first became a member of a uniformed service (as defined in section 101 of title 10) before September 8, 1980, is determined by multiplying—

(A) the sum of—

(i) the basic pay of the member’s retired grade or rate, and

(ii) all permanent additions thereto including longevity credit to which the member was entitled at the time of retirement; by

(B) the retired pay multiplier determined under section 1409 of title 10 for the number of years of service that may be credited to the member under section 1405 of such title.

(2) In the case of an officer who served as Commandant of the Coast Guard, retired pay under paragraph (1) shall be computed at the highest rate of basic pay applicable to the officer while so serving.

(3) In the case of an enlisted member who served as the master chief petty officer of the Coast Guard, retired pay under paragraph (1) shall be computed at the highest rate of basic pay to which the member was entitled while so serving, if that basic pay is greater than the basic pay of the grade or rate to which the member is otherwise entitled at the time of retirement.

(4) In the case of an officer whose retired pay is computed on the pay of a grade for which basic pay is not based upon years of service, retired pay under paragraph (1) shall be computed on the basis of the number of years of service for which the officer would be entitled to credit in the computation of pay on the active list had the officer been serving in the grade of captain at the time of retirement.
(b) The retired pay of a member who first became a member of a uniformed service (as defined in section 101 of title 10) on or after September 8, 1980, is determined by multiplying—

(1) the retired pay base determined under section 1407 of title 10; by

(2) the retired pay multiplier determined under section 1409 of title 10 for the number of years of service that may be credited to the member under section 1405 of such title.

(c)(1) In computing for the purpose of subsection (a) or (b) the number of years of service that may be credited to a member under section 1405 of such title—

(A) each full month of service that is in addition to the number of full years of service creditable to the member shall be counted as $\frac{1}{12}$ of a year; and

(B) any remaining fractional part of a month shall be disregarded.

(2) Retired pay computed under this section, if not a multiple of $\frac{1}{12}$ of a year, shall be rounded to the next lower multiple of $\frac{1}{12}$ of a year.


**HISTORICAL AND REVISION NOTES**


Section was enlarged to include computation of retired pay in all situations. It is in accord with the provisions of Navy statutes. 81st Congress, House Report No. 557.

**AMENDMENTS**

1986—Pub. L. 99–348 amended section generally. Prior to amendment, section provided that retired pay of a grade or rating would be computed at the rate of $\frac{1}{12}$ percent of the sum of the basic pay of that grade or rating and all permanent additions thereto including longevity credit, multiplied by the number of years of service credited, with certain exceptions, and that retired pay of an officer or member of the Coast Guard who first became a member of a uniformed service, as defined in section 1407(a)(2) of title 10, after Sept. 7, 1980, would be computed at the rate of $\frac{1}{12}$ percent of the monthly retired pay base computed under section 1407(f) of title 10, multiplied by the number of years of service credited, but that retired pay was not to be more than 75 percent of such monthly retired pay base. 1984—Subsec. (a). Pub. L. 98–557 substituted reference to enlisted member concerned for reference to enlisted man concerned.

1983—Subsec. (a). Pub. L. 98–94, §923(d), substituted “‘In computing the number of years of service by which the rate of 2% percent is multiplied, each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded’” for “‘A fractional year of six months or more shall be considered a full year in computing the number of years of service by which the rate of 2% percent is multiplied’”.

Pub. L. 98–94, §922(b), inserted “Retired pay, if not a multiple of $\frac{1}{12}$, shall be rounded to the next lower multiple of $\frac{1}{12}$.”


1980—Pub. L. 96–342 designated existing provisions as subsec. (a), substituted “Except as provided in subsection (b), the” for “The”, and added subsec. (b).

1972—Pub. L. 92–455 provided for computation of retired pay of an enlisted member serving as the master chief petty officer of the Coast Guard at the highest basic pay applicable to him while he so served, if that basic pay is greater than the basic pay of the grade or rating to which he was otherwise entitled at the time of retirement.


1958—Pub. L. 85–422 substituted “that may be credited to him” for “for which he was entitled to credit” for “in the computation of his pay when last on active duty”.


**EFFECTIVE DATE OF 1983 AMENDMENT**


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

**EFFECTIVE DATE OF 1963 AMENDMENT**


**EFFECTIVE DATE OF 1958 AMENDMENT**

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

§ 424. Limitations on retirement and retired pay

(a) The provisions of any section of this title shall not be construed so as to prevent any member from being placed on the retired list with the highest grade or rate and the highest retired pay to which the member may be entitled under the provisions of any other section of this title or under any other law.

(b) In no case may the retired pay of a member exceed 75 percent of (1) the sum of the active-duty pay and all permanent additions thereto (including longevity credit to which the member is entitled) of the grade or rate on which the member’s pay is computed, or (2) the retired pay base determined under section 1407 of title 10, as appropriate.


**HISTORICAL AND REVISION NOTES**

The two provisions of this section are considered desirable as safeguards to eliminate any possible misconstruction of situations relating to retirement and retired pay in respect to the two points covered. 81st Congress, House Report No. 557.

**AMENDMENTS**

§ 424a. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution

Under procedures prescribed by the Secretary, the Secretary may suspend the payment of the retired pay of a member or former member during periods in which the member willfully remains outside the United States to avoid criminal prosecution or civil liability. The procedures shall address the types of criminal offenses and civil proceedings for which the procedures may be used, including the offenses specified in section 8312 of title 5, and the manner by which a member, upon the return of the member to the United States, may obtain retired pay withheld during the member’s absence.


§ 425. Board for Correction of Military Records deadline

(a) Deadline for completion of action.—The Secretary shall complete processing of an application for correction of military records under section 1552 of title 10 by not later than 10 months after the date the Secretary receives the completed application.

(b) Remedies deemed exhausted.—Ten months after a complete application for correction of military records is received by the Board for Correction of Military Records of the Coast Guard, administrative remedies are deemed to have been exhausted, and—

(1) if the Board has rendered a recommended decision, its recommendation shall be final agency action and not subject to further review or approval within the department in which the Coast Guard is operating; and

(2) if the Board has not rendered a recommended decision, agency action is deemed to have been unreasonably delayed or withheld and the applicant is entitled to—

(A) an order under section 706(1) of title 5, directing final action be taken within 30 days from the date the order is entered; and

(B) from amounts appropriated to the department in which the Coast Guard is operating, the highest retired pay to which such officer or enlisted member concerned is entitled, of the grade or rating on which his pay is computed.


PRIOR PROVISIONS

§ 432. Personnel of former Lighthouse Service

(a) Any person of the former Lighthouse Service commissioned as an officer in the Coast Guard shall be an extra number in his grade and in the grades to which he may be promoted. He shall take precedence (1) with other officers commissioned in his grade from the former Lighthouse Service as the Secretary of the Treasury may determine, and (2) with other line officers in his grade in accordance with the respective dates of their commissions in such grade. He shall be eligible for promotion, if otherwise qualified, at such time as the officer in a regular number in line of promotion next above him on the seniority list becomes eligible for promotion; or if there be no such officer in his grade, he shall be eligible for promotion, if otherwise qualified, when a vacancy occurs in the next higher grade. An officer so commissioned shall be assigned to duty for which he is specially qualified, and professional examinations for promotion given to such officer shall embrace only subjects which pertain to the duty to which he is assigned.

(b) Each vacancy (1) hereafter occurring in the extra numbers of such officers; (2) existing on August 5, 1939, in positions in the Lighthouse Service formerly held by personnel eligible for such commissions; and (3) created by the retirement, resignation, death, or separation from the service for any other cause, of such personnel who do not possess the qualifications prescribed by the Secretary of the Treasury or who, being qualified, do not accept a commission theretofore offered to him, shall operate to increase by one the total authorized number of line officers of the Coast Guard.

(c) All persons of the former Lighthouse Service commissioned, appointed, or enlisted in the Coast Guard shall be subject to all laws and regulations for the government of the Coast Guard, and nothing contained in this title shall be construed to prevent the application to any of such persons of laws and regulations concerning the military discipline of commissioned and warrant officers and enlisted members of the Coast Guard.

(d) In computing length of service, for the purpose of retirement in the Coast Guard, of any person of the former Lighthouse Service commissioned, appointed, or enlisted in the Coast Guard, there shall be included all service computable for retirement under the provisions of section 763 of title 33, substituting, however, for purposes of such computation, the annual compensation which he was receiving on the date of his commission, appointment, or enlistment in the Coast Guard for the average annual pay received by him for the last five years of service.

(f) Notwithstanding any other provision of law, chapter 51, subchapter III of chapter 53, and sections 5542–5546 of title 5 shall not apply to civilian keepers of lighthouses and to civilians employed on lightships and other vessels of the Coast Guard, but such personnel may be called upon for duty in emergency circumstances or otherwise at any time or all times. The existing system governing the pay of such employees may be continued or changed except that overtime compensation, night differential, and extra pay for duty on holidays shall not be paid to such employees. In lieu thereof additional annual compensation may be authorized, which may be prescribed either as a fixed differential or as a percentage of the basic compensation otherwise applicable to such employees. In no case shall basic compensation exceed $15,000 per annum, except that nothing contained in this subsection shall operate to decrease the basic compensation of any person employed by the Coast Guard on the date of enactment of this subsection, and in no case shall additions thereto exceed 25 percent of such basic compensation. Provision may be made for compensatory absence from duty when conditions of employment result in confinement because of isolation or in long periods of continuous duty; and provisions may likewise be made for extra allowance for service outside of the continental limits of the United States.

(2) The additional compensation authorized by this subsection shall be included in any computation of compensation under section 6 of the Act of June 20, 1918 (33 U.S.C. 763).


HISTORICAL AND REVISION NOTES

See note under section 431 of this title.

REFERENCES IN TEXT

The date of enactment of this subsection, referred to in subsec. (g)(1), is Aug. 4, 1949.

AMENDMENTS


1982—Subsec. (f). Pub. L. 97–295, §2(13), substituted ‘‘chapter 51, subchapter III of chapter 53, and sections...
Chapter 13 of this title deals with pay, allowances, awards, and other rights and benefits for personnel of the Coast Guard. Some of these sections are new as applied to the Coast Guard, some clarify and consolidate existing law, and others merely restate existing law. There is no intention to amend, enlarge or curtail the existing law, and others merely restate existing law.

### Historical and Revision Notes

This section assimilates the pay of military personnel of the Coast Guard to the pay of military personnel of the other armed forces. The assimilation provision thereof is inoperative only insofar as Congress has made specific legislative provision for the Coast Guard, and that benefits derived from legislation pertaining to the Navy previously conferred upon the Coast Guard, and not provided for in subsequent legislation, survive to the Coast Guard under the assimilation statute. (See 27 Comp. Dec. 324; 22 Comp. Gen. 723; decision of June 10, 1952, 50 Stat. 63472; decision of April 2, 1948, B-70438; and decision of September 2, 1948, B-77295.) It seems desirable to retain this assimilation provision as to pay in order to cover any failure to provide specifically for the Coast Guard in military pay legislation.

This section assimilates the pay of military personnel of the Coast Guard to the pay of military personnel of the Navy. It seems that this is the most feasible method of insuring that the pay of military personnel of the Coast Guard will not vary from the pay of military personnel of the other armed forces. The assimilation is intended to include authorization for extra pay and allowances as provided for personnel of the Navy, for all types of special duty: for example, qualified divers on diving duty, military personnel assigned to submarine duty, military personnel assigned to aviation duty, officers assigned as aides to flag officers, and enlisted personnel assigned to duty in the mess detail. Military pay acts are intended to include Coast Guard personnel specifically; this section would cover any failure to so provide for Coast Guard personnel in a pay act.
Changes were made in phraseology. 81st Congress, House Report No. 557.

**Amendments**

1976—Pub. L. 94–546 substituted “Secretary” for “Secretary of the Treasury”.

1967—Pub. L. 90–63 corrected section 73(a)(3) of Pub. L. 89–718 to change the designation of sections repealed under Pub. L. 87–649 from sections 471(a) and (b) of Title 14 to sections 461(a) and (b) of Title 14. See 1966 Amendment note below.

1966—Pub. L. 89–718, §73(a)(3), amended section 14d of Pub. L. 87–649, which contained in cls. (1) to (6) list of sections of Title 14 repealed by Pub. L. 87–649, by inserting “(7) Section 471(a) and (b).” However, for purposes of codification, the repeal has been executed to former subsecs. (a) and (b) of this section, which provided respectively for the awarding of the same pay and allowances as prescribed for corresponding ranks, grades, or ratings for personnel of the Navy and for the withholding of pay of officers on account of indebtedness to the United States, since this appears to have been the intent of Congress.

Pub. L. 89–718, §73(c)(1), struck out references to pay and allowances of pay of officers indebted to the United States from section catchline and struck out letter designation “(c)” from beginning of former subsec. (c), leaving text of former subsec. (c) as constituting entire text of section.

1962—Pub. L. 87–520, §11(a), amended section catchline to provide for remission of indebtedness of enlisted members.


1954—Act Sept. 3, 1954 inserted “pay of officers indebted to United States” in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

**Effective Date of 1967 Amendment**

Pub. L. 90–63, §9(1), Sept. 11, 1967, 81 Stat. 222, provided that “Section 2 of this Act (correcting section 73(a)(3) of Pub. L. 89–718) is effective as of November 2, 1966, for all purposes.”


**Effective Date of Repeal**

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


Section, act Aug. 4, 1949, ch. 393, 63 Stat. 530, related to continuation of additional pay.


Sections 464, act Aug. 4, 1949, ch. 393, 63 Stat. 531, related to allotments of pay. See section 703 of Title 37, Pay and Allowances of the Uniformed Services.

Section 465, act Aug. 4, 1949, ch. 393, 63 Stat. 531, related to advances to officers ordered to and from sea or shore duty beyond the seas. See section 1006 of Title 37.

**Effective Date of Repeal**

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


Section, act Aug. 4, 1949, ch. 393, 63 Stat. 531, provided for settlement of accounts of deceased officers and men. See section 2771 of Title 10, Armed Forces, and section 714 of Title 32, National Guard.

**§ 467. Computation of length of service**

In computing length of service of officers and enlisted personnel for any purpose all creditable service in the Army, Navy, Marine Corps, Air Force, Coast Guard, Revenue Cutter Service, and Life Saving Service shall be included in addition to any other creditable service authorized by any other law.

(Aug. 4, 1949, ch. 393, 63 Stat. 531.)

**Historical and Revision Notes**


**§ 468. Procurement of personnel**

The Coast Guard may expend operating expense funds for recruiting activities, including but not limited to advertising and entertainment, in order to—

(1) obtain recruits for the Service and cadet applicants; and

(2) gain support of recruiting objectives from those who may assist in the recruiting effort.


**Historical and Revision Notes**

Based on the following language contained in the Coast Guard appropriation act for 1949, “Pay and Allowances” and preceding years: “expenses of recruiting for the Coast Guard; advertising for and obtaining enlisted personnel and applicants for appointment as cadets:” (June 19, 1948, ch. 558, 62 Stat. 562). Changes were made in phraseology. 81st Congress, House Report No. 557.

**Amendments**

1996—Pub. L. 104–324 amended text generally. Prior to amendment, text read as follows: “The Coast Guard may make expenditures as necessary in order to obtain recruits for the service and cadet applicants, including advertising.”

**§ 469. Training**

The Coast Guard may make expenditures for the training of personnel, including books, school supplies, correspondence courses, motion picture equipment, and other equipment for instructional purposes.

(Aug. 4, 1949, ch. 393, 63 Stat. 531.)

**Historical and Revision Notes**

Based on the following language contained in the Coast Guard appropriation act for 1949, “Pay and Al-
§ 470. Special instruction at universities

Coast Guard personnel may be assigned for special instruction at private or state colleges or universities, and their expenses, including tuition, books, laboratory equipment and fees, and school supplies, may be defrayed by the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 531.)

HISTORICAL AND REVISION NOTES

Based on the following language contained in the Coast Guard appropriation act for 1949, “Pay and Allowances” and preceding years: “Not to exceed $32,200 for cost of instruction of officers at non-Federal institutions, including books, laboratory equipment and fees, school supplies, and maintenance of students;” (June 19, 1948, ch. 558, 62 Stat. 562).

The monetary limitation is removed.

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

§ 471. Attendance at professional meetings

Coast Guard personnel may be directed to attend meetings of technical, professional, scientific, and other similar organizations and may be reimbursed for expenses thereby incurred at the rates authorized by law.

(Aug. 4, 1949, ch. 393, 63 Stat. 532.)

HISTORICAL AND REVISION NOTES

It is believed that the authority contained in this section will greatly benefit the Government in providing better trained personnel. A similar provision was enacted for personnel of the Navy in 1946 (see title 5, U.S.C., 1946 ed., § 421c). 81st Congress, House Report No. 557.


§ 472. Education loan repayment program

(a)(1) Subject to the provisions of this section, the Secretary may repay—

(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or

(C) any loan made under part E of such title (20 U.S.C. 1087aa et seq.).

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

(2) The Secretary may repay loans described in paragraph (1) in the case of any person for service performed on active duty as an enlisted member of the Coast Guard in a specialty specified by the Secretary.

(b) The portion or amount of a loan that may be repaid under subsection (a) is 33 1/3 percent or $1,500, whichever is greater, for each year of service.

(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

(e) The Secretary shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out this section during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a).


REFERENCES IN TEXT


Complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

PRIOR PROVISIONS


Section, act Aug. 4, 1949, ch. 393, 63 Stat. 532, authorized Secretary to discharge underage Coast Guard enlisted personnel with appropriate pay and allowances, such persons to be given subsistence and transportation in kind to their homes.

Opinion of the Comptroller General, No. B–9297, Dec. 23, 1949, in holding that act Sept. 24, 1945, ch. 385, 59 Stat. 536, from which this section was derived, was superseded by section 303 of the Career Compensation Act of 1949, act Oct. 12, 1949, ch. 681, title III, 63 Stat. 813, stated that this section was also inconsistent with said section 303 and therefore repealed. See section 423 of Title 37, Pay and Allowances of the Uniformed Services.


Section, act Aug. 4, 1949, ch. 393, 63 Stat. 532, related to compensation for travel tolls and fares. See section 478 of Title 37, Pay and Allowances of the Uniformed Services.

§ 475. Leasing and hiring of quarters; rental of inadequate housing

(a) The Secretary is authorized to lease housing facilities at or near Coast Guard installations, wherever located, for assignment as public quarters to military personnel and their dependents, if any, without rental charge upon a determination by the Secretary, or his designee, that there is a lack of adequate housing facilities at or near such Coast Guard installations. The Secretary is also authorized to lease housing facilities for assignment as public quarters, without rental charge, to military personnel who are on sea duty or duty at remote offshore Coast Guard stations and who do not have de-
pendents. Such authority shall be effective in any fiscal year only to such extent or in such amounts as are provided in appropriation Acts. When any such lease involves housing facilities in a foreign country, the lease may be made on a multiyear basis for a period not to exceed five years, and, in accordance with local custom and practice, advance payment may be made for the lease. Such public housing facilities may be leased on an individual or multiple-unit basis. Expenditures for the rental of such housing facilities may not exceed the average authorized for the Department of Defense in any year except where the Secretary finds that the average is so low as to prevent rental of necessary housing facilities in some areas, in which event he is authorized to reallocate existing funds to high-cost areas so that rental expenditures in such areas exceed the average authorized for the Department of Defense. (b) The Secretary is authorized, subject to regulations approved by the President—
(1) to designate as rental housing such housing as he may determine to be inadequate as public quarters; and
(2) to lease inadequate housing to members of the Coast Guard for occupancy by them and their dependents.

(c) Where sufficient quarters are not possessed by the United States, the Commandant may hire quarters for personnel, including personnel on sea duty at such times as they may be deprived of their quarters on board ship due to repairs or other conditions which may render them uninhabitable. Such accommodations shall not be available for occupancy by the dependents of such personnel. (Aug. 4, 1949, ch. 303, 63 Stat. 532; Pub. L. 91–278, § 1(11), June 12, 1970, 84 Stat. 305; Pub. L. 92–343, (Aug. 4, 1949, ch. 393, 63 Stat. 532; Pub. L. 91–278, title VI, § 632(b)(2), Dec. 4, 1987, 101 Stat. 1105.)

HISTORICAL AND REVISION NOTES
Based on title 14, U.S.C. 1946 ed., § 133a (June 19, 1942, ch. 419, § 2, 56 Stat. 372) and on the following language contained in the Coast Guard appropriation act for 1949, “Pay and Allowances” and preceding years: “hiring of quarters for Coast Guard personnel comparable to quarters assignable on a capital ship of the Navy, as authorized by the Secretary to meet emergency conditions, including officers and men on sea duty at such times as they may be deprived of their quarters on board ship due to repairs or other conditions which may render them uninhabitable: Provided, That under this authorization no funds may be expended for the hire of quarters for occupancy by the dependents of officers or enlisted personnel” (June 19, 1948, ch. 558, 62 Stat. 563). Changes were made in phraseology, 81st Congress, House Report No. 567.

AMENDMENTS
1987—Subsecs. (b) to (d). Pub. L. 100–180 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which read as follows: “Notwithstanding the provisions of any other law, members of the Coast Guard, with dependents, may occupy on a rental basis, without loss of basic allowance for quarters, adequate quarters under the jurisdiction of the Coast Guard notwithstanding that such quarters may have been constructed or converted for assignment as public quarters. The net difference between the basic allowance for quarters and the fair rental value of such quarters shall be paid from otherwise available appropriations; however, no rental charge for such quarters shall be made against the member’s basic allowance for quarters be less than the cost of maintaining and operating the housing.”


1976—Subsec. (a). Pub. L. 94–546, § 130(a), substituted “Secretary” for “Secretary of the Department in which the Coast Guard is operating” wherever appearing.

1972—Subsec. (a). Pub. L. 92–343 substituted “Secretary” for “Secretary of the Department in which the Coast Guard is operating” wherever appearing. Pub. L. 92–343 inserted provisions authorizing the Secretary to lease housing facilities for assignment as public quarters, without rental charge, to military personnel who are on sea duty or duty at remote offshore Coast Guard stations and who do not have dependents, and further provided that such authority shall be effective in any fiscal year only to such extent or in such amounts as are provided in appropriation acts.


1968—Subsec. (a). Pub. L. 90–446, § 4(1), redesignated subsec. (f) as (e). Former subsec. (e), which provided that the authority conferred by subsecs. (b) and (c) of this section expire on June 30, 1976, was struck out.

1967—Subsecs. (f), (g). Pub. L. 90–446, § 4(2), redesignated subsec. (g) as (f) and substituted “(e)” for “(f)”.

1965—Subsecs. (f), (g). Pub. L. 91–278 substituted “Leasing and hiring of quarters; rental of inadequate housing for ‘Hiring of quarters for personnel’ in section catchline, designated existing provisions as subsec. (d), and added subsecs. (a) to (c) and (e).
EX. ORD. No. 11645. AUTHORITY OF SECRETARY OF HOMELAND SECURITY TO PRESCRIBE CERTAIN REGULATIONS RELATING TO HOUSING

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Homeland Security is designated and empowered to prescribe (or, under a delegation of the Secretary’s authority, the Commandant of the Coast Guard is authorized to prescribe) regulations pursuant to section 475(c) of title 14 of the United States Code, relating to the designation and leasing of rental housing, without the approval, ratification, or other action by the President.

Sic. 2. Whenever the entire Coast Guard operates as a service in the Navy, the reference to the Secretary of Homeland Security in section 1 of this order shall be deemed to be a reference to the Secretary of the Navy.

§ 476. Contingent expenses

The Commandant may expend for contingencies of the Coast Guard a sum not to exceed $50,000 in any one fiscal year.


HISTORICAL AND REVISION NOTES


The limitation on the amount for such contingencies is increased, and the amount is made available to the Commandant rather than solely to the Superintendent of the Academy as now prescribed by law. The authorization is to cover expenditures incident to the offices of the Commandant and the Superintendent of the Academy. The intent is that the amount authorized will be administered in a manner similar to that now employed by the Superintendent of the Academy under the authority of 14 U.S.C., §15k. 81st Congress, House Report No. 557.

AMENDMENTS

2004—Pub. L. 108–293 substituted “$50,000” for “$7,500” and struck out at end “The Commandant may authorize the Superintendent of the Academy to expend not to exceed $2,500 of this amount for contingencies of the Academy.”

§ 477. Equipment to prevent accidents

The Coast Guard may make such expenditures as are deemed appropriate for promotion and maintenance of the safety and occupational health of, and the prevention of accidents affecting, personnel of the Coast Guard, including the purchase of clothing, equipment, and other materials necessary thereto.

(Aug. 4, 1949, ch. 393, 63 Stat. 532.)

HISTORICAL AND REVISION NOTES


Because of the wide variety of tasks assigned to Coast Guard personnel it is deemed advisable to broaden this authority to the more general language as rewritten, insofar as Coast Guard personnel are concerned, thus giving complete authority to protect their health.

Said section would in no way be affected. Inasmuch as the act cited above applies to executive departments generally, it is not scheduled for repeal by this act. 81st Congress, House Report No. 557.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 469(b), 553(d), 553(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

HYPERThERMA PROTECTIVE CLOTHING REQUIREMENT

Pub. L. 107–295, title IV, §418, Nov. 25, 2002, 116 Stat. 2118, provided that: “The Commandant of the Coast Guard shall ensure that all Coast Guard personnel are equipped with adequate safety equipment, including hypothermia protective clothing where appropriate, while performing search and rescue missions.”

§ 478. Rations or commutation therefor in money

(a) Enlisted members of the Coast Guard, civilian officers and civilian crews of vessels, and working parties in the field shall be allowed a ration or commutation thereof in money, in such amount and under limitations and regulations prescribed by the Secretary.

(b) Money for commuted rations shall be paid, under such regulations as the Secretary shall prescribe, on proper vouchers, or pay rolls, to persons entitled to receive it, or to the officers designated by the Commandant to administer the financial affairs of the messes in which such persons may be subsisted.

(c) Money paid for commuted rations to the designated officer may be deposited in general or limited depositories of public money or in any bank in which deposits are insured. Such funds shall be expended and accounted for under such regulations as the Secretary shall prescribe.

(d) Nothing contained in this section shall be construed as modifying or changing in any manner the provisions of law pertaining to subsistence allowances for enlisted members, but no ration or commutation thereof shall be allowed a person receiving a subsistence allowance.


HISTORICAL AND REVISION NOTES


The provisions of said section 134 are extended to include all persons who might be entitled to receive money for commuted rations, rather than only the officer in charge of the mess.

The last proviso of said section 135 is eliminated, because experience during the past 2 years shows that it may react detrimentally on enlisted men in time of rising food costs.

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

AMENDMENTS


§ 479. Sales of ration supplies to messes

Ration supplies may be purchased by the cabin, wardroom, warrant officers’, and other
authorized messes and payment therefor made in cash to the commissary officer. The prices to be charged for such supplies shall not be less than the invoice prices, and the cash received from such sales shall be accounted for on the ration return and may be expended for the general mess.

(Aug. 4, 1949, ch. 393, 63 Stat. 533.)

§ 480. Flight rations

There may be furnished to officers, enlisted members, and civilian employees, while actually engaged in flight operations, an aircraft flight ration in kind, chargeable to the proper Coast Guard appropriation, which flight ration shall be supplementary to any ration or subsistence allowance now granted to such personnel. No part of an aircraft flight ration shall be furnished without cost to any person in a travel status or to any person to whom a per diem allowance is granted in lieu of actual subsistence.


HISTORICAL AND REVISION NOTES

Derived from title 34, U.S.C., 1946 ed., § 909 (June 21, 1930, ch. 563, § 2, 46 Stat. 793). Said section is applicable to Navy personnel only. Experience has shown that similar authority should be granted to the Coast Guard; it will operate to the benefit of Navy personnel stopping over at Coast Guard air stations as well as to the benefit of Coast Guard personnel stopping over at Naval air stations.

The language of said section is closely paralleled.

Said section would in no way be affected. 81st Congress, House Report No. 557.

AMENDMENTS


§ 481. Payments at time of discharge for good of service

Enlisted members discharged for bad conduct, undesirability, unsuitability, or inaptitude may be furnished civilian clothing, including an overcoat when necessary, the cost of such furnished clothing not to exceed $30, per person.


HISTORICAL AND REVISION NOTES


Inasmuch as the act cited above applies equally to the Navy and Marine Corps as well as the Coast Guard, it is not scheduled for repeal but is being amended by section 18 of this act to eliminate reference to the Coast Guard.

Changes in phraseology were made in order to adapt said section to this revision. 81st Congress, House Report No. 557.

AMENDMENTS


§ 482. Clothing at time of discharge for good of service

Enlisted members discharged for bad conduct, undesirability, unsuitability, or inaptitude may be furnished civilian clothing, including an overcoat when necessary, the cost of such furnished clothing not to exceed $30, per person.


HISTORICAL AND REVISION NOTES


Inasmuch as the act cited above applies equally to the Navy and Marine Corps as well as the Coast Guard, it is not scheduled for repeal but is being amended by section 18 of this act to eliminate reference to the Coast Guard.

Changes in phraseology were made in order to adapt said section to this revision. 81st Congress, House Report No. 557.

AMENDMENTS


Wearing of uniform Authorized by President

Section 2 of act June 21, 1930, ch. 563, 46 Stat. 793, upon which subsec. (a) of this section was based, was amended by act July 6, 1953, ch. 180, § 2, 67 Stat. 140, to substitute “Authorized by regulations of the President” for “of ceremony”.

§ 483. Right to wear uniform

When authorized by and in accordance with applicable regulations:

(a) any member who has served honorably in the Coast Guard during war shall when not in active service, whether or not on the retired list, be entitled to bear the official title and upon occasions of ceremony to wear the uniform of the highest rank or rating held by him during his war service, and

(b) any member on the retired list shall be entitled to wear the uniform of his rank or rating.


HISTORICAL AND REVISION NOTES


AMENDMENTS


Wearing of uniform Authorized by President

Section 2 of act June 21, 1930, ch. 563, 46 Stat. 793, upon which subsec. (a) of this section was based, was amended by act July 6, 1953, ch. 180, § 2, 67 Stat. 140, to substitute “Authorized by regulations of the President” for “of ceremony”.

§ 484. Protection of uniform

The provisions of law relating to the protection of the uniform of the United States Army,
Navy, or Marine Corps shall apply to the protection of the uniform of the Coast Guard, in the same manner, to the same extent, and under the same conditions.

(Aug. 4, 1949, ch. 393, 63 Stat. 533.)

§ 485. Clothing for officers and enlisted personnel

(a) The Coast Guard may purchase uniforms, accouterments, and related equipment for sale to officer personnel and cadets of the Coast Guard.

(b) The Coast Guard may purchase uniform clothing for sale to enlisted personnel of the Coast Guard. The actual cost of the clothing thus sold to enlisted personnel may be withheld from their pay.


§ 486. Clothing for destitute shipwrecked persons

The Coast Guard may furnish clothing and subsistence to destitute shipwrecked persons, and the Coast Guard may reimburse, in cash or in kind, Coast Guard personnel who furnish clothing and subsistence to destitute shipwrecked persons.

(Aug. 4, 1949, ch. 393, 63 Stat. 534.)

§ 487. Procurement and sale of stores to members and civilian employees

Such stores as the Secretary may designate may be procured and sold to members of the Coast Guard, and to the surviving spouses of such members. Such designated stores may also be procured and sold to civilian officers and employees of the United States, and to such other persons as may be specifically authorized by the Secretary, at Coast Guard stations and other units beyond the continental limits of the United States or in Alaska.


Amendments


Historical and Revision Notes


This section was enlarged to provide that the Coast Guard, as well as personnel thereof, may furnish clothing and subsistence to destitute shipwrecked persons.

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

HISTORICAL AND REVISION NOTES


Section, act Aug. 4, 1949, ch. 393, 63 Stat. 534, provided for payment of a death gratuity to survivors of officers and enlisted men of Regular Coast Guard. See sections 1475 to 1480 of Title 10, Armed Forces.


Effective date of repeal

Section 7 of Pub. L. 88–558 provided that the repeal of this section is effective two years from Aug. 31, 1964.

Repeals


§ 491. Medal of honor

The President may award, and present in the name of Congress, a medal of honor of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Coast Guard, distinguishes himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force;

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.


Historical and Revision Notes

This section is new insofar as application to Coast Guard personnel in time of peace is concerned. Such awards can be made to members of the Coast Guard when the Coast Guard is operating with the Navy.


Amendments

1963—Pub. L. 88–77 enlarged the authority to award the medal of honor, which was limited to those cases in which persons, while in the service of the Coast Guard, distinguished themselves in action involving actual conflict with an enemy, or in the line of his profession, and without detriment to the mission of his command or to the command to which attached, to permit its award for distinguished service by members of the Coast Guard while engaged in an action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party, and substituted the requirement that it be of appropriate design, with ribbons and appurtenances, for the requirement that the design be the same as that of the Navy medal of honor.

§ 491a. Coast Guard cross

The President may award a Coast Guard cross of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Coast Guard, when the Coast Guard is not operating under the Department of the Navy, distinguishes himself or herself by extraordinary heroism not justifying the award of a medal of honor—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force or international terrorist organization; or

(3) while serving with friendly forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(Aug. 4, 1949, ch. 393, 63 Stat. 535.)

Historical and Revision Notes

This section is new insofar as application to Coast Guard personnel in time of peace is concerned. Such awards can be made to members of the Coast Guard when the Coast Guard is operating with the Navy.


EX. ORD. NO. 12824. ESTABLISHING THE HOMELAND SECURITY DISTINGUISHED SERVICE MEDAL


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

Section 1. There is hereby established a Homeland Security Distinguished Service Medal, with accompanying ribbons and appurtenances, for award by the Secretary of Homeland Security to any member of the Armed Forces of the United States who has provided exceptionally meritorious service in a duty of great responsibility while assigned in the Department of Homeland Security, either national or international, as may be assigned by the Secretary.

Section 2. The Homeland Security Distinguished Service Medal and appurtenances thereto shall be of appropriate design approved by the Secretary of Homeland Security and shall be awarded under such regulations as the Secretary shall prescribe. These regulations shall place the Homeland Security Distinguished Service Medal in an order of precedence immediately before the Coast Guard Distinguished Service Medal.
§ 492a. Silver star medal

The President may award a silver star medal of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Coast Guard, distinguishes himself by heroism or extraordinary achievement while engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.


Historical and Revision Notes

This section is supplemental to the preceding sections dealing with the award of medals and regulates the award of additional medals of the same kind. It follows the established practice in all the armed forces (see title 34, U.S.C., §556). 81st Congress, House Report No. 557.

Amendments

2010—Pub. L. 111–281 substituted “Coast Guard cross, distinguished service medal, silver star medal, distinguished flying cross,” for “distinguished service medal, distinguished flying cross,” in two places.

1956—Act Aug. 10, 1956, included the distinguished flying cross.


Additional Repeal


§ 496. Time limit on award; report concerning deed

(a) No medal of honor, Coast Guard cross, distinguished service medal, silver star medal, distinguished flying cross, Coast Guard medal, or bar, emblem, or insignia in lieu thereof may be awarded to a person unless—

(1) the award is made within five years after the date of the deed or service justifying the award;

(2) a statement setting forth the deed or distinguished service and recommending official recognition of it was made by his superior through official channels within three years from the date of that deed or termination of the service.

(b) If the Secretary determines that—

(1) a statement setting forth the deed or distinguished service and recommending official recognition of it was made by the person’s superior through official channels within three years from the date of that deed or termination of the service and was supported by sufficient evidence within that time; and

(2) no award was made, because the statement was not lost or through inadvertence the
recommends was not acted upon; a medal of honor, Coast Guard cross, distinguished service medal, silver star medal, distinguished flying cross, Coast Guard medal, or bar, emblem, or insignia in lieu thereof, as the case may be, may be awarded to the person within two years after the date of that determination.


HISTORICAL AND REVISION NOTES


AMENDMENTS


Subsec. (b)(2). Pub. L. 111—281, §224(c)(2)(B), substituted “distinguished service medal, silver star medal, distinguished flying cross,” for “distinguished service medal, distinguished flying cross.”

1962—Pub. L. 87—526 incorporated existing provisions in subsec. (a), included the distinguished flying cross and bar in lieu of any award in the enumeration of medals, and extended the time limit for recommending award of a medal after performance of the deed justifying the award from one to three years and added subsec. (b).

§ 497. Honorable subsequent service as condition to award

No medal of honor, Coast Guard cross, distinguished service medal, silver star medal, distinguished flying cross, Coast Guard medal, or emblem, or insignia in lieu thereof shall be awarded or presented to any individual, or to the representative of any individual, whose entire service subsequent to the time he distinguished himself shall not in the opinion of the Commandant have been honorable.


HISTORICAL AND REVISION NOTES

This section makes honorable service subsequent to the act for which award is made, a condition precedent to granting the award. The Navy has the same statutory condition (see title 34, U.S.C., 1946 ed., §362). 81st Congress, House Report No. 557.

AMENDMENTS

2010—Pub. L. 111—281 substituted “Coast Guard cross, distinguished service medal, silver star medal, distinguished flying cross,” for “distinguished service medal, distinguished flying cross.”

1956—Act Aug. 10, 1956, included the distinguished flying cross.

§ 498. Posthumous awards

In case an individual who distinguishes himself dies before the making of any award to which he may be entitled, as authorized in this chapter, the award may be made and presented within five years from the date of the act or service justifying the award to such next of kin as may have been designated by the individual, or in the absence of such designation, or if the designated person is not alive at the time of the award, or if the relationship between such person and the serviceman shall have been terminated before his death, then to such representative as the President designates. In the event of a posthumous award when the award will be made to the parents of the deceased and the parents have been divorced or separated, a duplicate award may be made to each parent.

(Aug. 4, 1949, ch. 393, 63 Stat. 536.)

HISTORICAL AND REVISION NOTES

This section sets forth the conditions under which posthumous awards can be made. It is substantially the same as conditions for the Navy, but has the added provision for duplicate awards in case the parents are divorced or separated (see title 34, U.S.C., 1946 ed., §363). 81st Congress, House Report No. 557.

§ 499. Delegation of powers to make awards; rules and regulations

The President may delegate to the Secretary, under such conditions, regulations, and limitations as he prescribes, the powers conferred upon him to make the awards designated in this chapter, and the President may make any and all rules, regulations, and orders which he deems necessary in the conferring of such awards.

(Aug. 4, 1949, ch. 393, 63 Stat. 536.)

HISTORICAL AND REVISION NOTES

This section provides for the delegation of powers to make awards to the Secretary. The Navy statute provides for such delegation to force commanders (see title 34, U.S.C., 1946 ed., §364). 81st Congress, House Report No. 557.

§ 500. Life-saving medals

(a) The Secretary may, under regulations prescribed by him, award a Life-saving medal of gold or silver to any person, including personnel of the Coast Guard, who rescues or endeavors to rescue any other person from drowning, shipwreck, or other peril of the water in accordance with the following provisions:

(1) if such rescue or attempted rescue is made at the risk of one’s own life and evidences extreme and heroic daring, the medal shall be of gold;

(2) if such rescue or attempted rescue is not sufficiently distinguished to deserve the medal of gold, but evidences the exercise of such signal exertion as to merit recognition, the medal shall be of silver.

(b) In order for a person to be eligible for the Life-saving Medals the rescue or attempted rescue must take place in waters within the United States or subject to the jurisdiction thereof, or if the rescue or attempted rescue takes place outside such waters, one or the other of the parties must be a citizen of the United States or from a vessel or aircraft owned or operated by citizens of the United States.

(c) No person shall receive more than one gold medal and one silver medal; but any person who has received or may hereafter receive a gold or
silver medal and who again performs an act which would entitle him to receive another medal of the same class may be awarded, in lieu of a second medal of the same class, a gold or silver bar, as the case may be, to be worn with the medal already bestowed, and for every such additional act, an additional bar may be awarded. Medals and bars in lieu thereof, authorized by this subsection, may be awarded posthumously.


**HISTORICAL AND REVISION NOTES**


Said sections have been rewritten so as to make the awarding of Life-saving medals turn on whether or not the United States has an interest in the heroic act, rather than on technical jurisdictional grounds. Under existing law the award of a medal could be made in any case in which the rescuer or the rescued was a citizen of the United States, or was from a vessel or craft operated by the United States regardless of where the rescue took place; and if the rescue took place within waters of the United States the award could be made to an alien.

The existing law relating to the Treasury Department Life-Saving Medal contained in title 14, U.S.C. 1946 ed., §§192-196, has long needed revision. The existing law is composed of a series of statutes enacted separately between 1874 and 1897, and the result has not been entirely satisfactory. The original statute, enacted in 1874 (title 14, U.S.C. 1946 ed., §193), provided for Life-saving medals of the first and second class to be bestowed "upon any persons who shall hereafter endanger their own lives in saving, or endeavoring to save lives from the perils of the sea, within the United States, or upon any American vessel". The medal of the first class was confined to cases of "extreme and heroic daring" and the medal of the second class was to be awarded "in cases not sufficiently distinguished to deserve the medal of the first class". Then in 1878 another act was passed (title 14, U.S.C. 1946 ed., §194) authorizing the bestowal of the medal of the second class "upon persons making such signal exertions in rescuing and succoring the shipwrecked, and saving persons from drowning" as, in the opinion of the Secretary of the Treasury, merited recognition. These two sections were construed by the Attorney General to be limited to the rescue of persons who were subjected to the perils of the sea in any waters of the United States in the vicinity of any lifeboat station, life-saving station, or house of refuge. And the person upon whom the medal could be bestowed was limited to members of life-saving crews. (1885) Op. Att. Gen. 124. Thereupon, in 1897, an act was passed which provided that the two earlier acts should "be construed so as to empower the Secretary of the Treasury to bestow such medals upon persons making such signal exertions in rescuing and succoring the shipwrecked and saving persons from drowning in waters over which the United States has jurisdiction, whether the said persons making such exertions were or were not members of the Life-Saving Service or whether or not such exertions were made in the vicinity of a life-saving station". (Title 14, U.S.C. 1946 ed., §196.) This act was designed to give a more liberal application to the two earlier acts, and all three were to be read as one. (1898) 25 Op. Att'y Gen. 78. However, difficult questions of interpretation have arisen because of the different jurisdictional language in the three acts. For example, title 14, U.S.C. 1946 ed., §195, refers to rescues "within the United States", while title 14, U.S.C. 1946 ed., §196, refers to rescues "in the waters over which the United States has jurisdiction". The need for clarification is obvious. Subsection (a) authorizes the awarding of the medal to any person, including Coast Guard personnel, who rescues or endeavors to rescue any person from drowning, shipwreck, or peril of the water. If the rescue or attempted rescue is at the risk of one's own life and evidences extreme and heroic daring, the medal shall be of gold, and if the rescue or attempted rescue is not sufficiently distinguished to deserve the gold medal, but evidences the exertion of such signal exertion as to merit recognition, the medal shall be of silver. Thus, the acts for which the medals are to be awarded are defined simply and without any geographical or jurisdictional limitations. The difficulty with the existing law is the attempt to define the required deed together with those limitations. Subsection (a) does not change existing law insofar as the type of act necessary for the medals is concerned; it merely simplifies and clarifies existing law.

Subsection (b) contains the jurisdictional limitations on the awarding of the medal and broadens, to a considerable extent, the provisions of existing law. It is the intent of this subsection to authorize the awarding of a medal in all cases where the United States has a legitimate interest in recognizing meritorious acts, such as where a United States citizen performs the act, or where a United States citizen is rescued, or where United States waters or United States vessels or aircraft are involved. Accordingly, rescues by United States citizens anywhere in the world will be recognized. Any person, including persons not citizens of the United States, may receive medals if the rescue or attempted rescue takes place in waters within the United States subject to its jurisdiction or, in cases of rescues outside such waters, if either the rescuer or the person rescued is from a United States vessel or aircraft, or the person rescued is a United States citizen. Thus, every case in which the United States government has an interest is provided for. A United States citizen who performs a heroic act sufficient to justify a medal in state waters, or in foreign waters, could not receive one under existing law, but could receive such award under this proposed revision. The awarding of medals should not turn on technical jurisdictional grounds; it should turn rather on the interest of the United States to recognize noble and heroic acts.

Subsection (c) dealing with the awarding of bars for additional acts, clarifies, but does not change title 14, U.S.C. 1946 ed., §195, except that authority is granted to award medals posthumously. 81st Congress, House Report No. 557.

**AMENDMENTS**

1976—Subsec. (a). Pub. L. 94-546 substituted "Secretary" for "Secretary of the Treasury".

§ 501. Replacement of medals

In those cases where a medal, or a bar, emblem, or insignia in lieu thereof, awarded pursuant to this chapter has been stolen, lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was awarded, such medal, or bar, emblem, or insignia in lieu thereof, shall be replaced without charge, or, in the discretion of the Secretary, upon condition that the Government is reimbursed for the cost thereof.


**HISTORICAL AND REVISION NOTES**

This section provides for the replacement of medals. It follows the established practice of the other armed forces, but makes an additional provision that the Secretary in his discretion may charge for the replacement medals in some circumstances. (See title 10, U.S.C. 1946 ed., §1416 and title 34, U.S.C. 1946 ed., §359.) 81st Congress, House Report No. 557.
§ 502. Award of other medals

Coast Guard personnel, notwithstanding the provisions of this chapter, may be awarded medals, bars, emblems, or insignia to which such personnel may be entitled under other provisions of law.

(Aug. 4, 1949, ch. 393, 63 Stat. 537.)

§ 503. Awards and insignia for excellence in service or conduct

The Coast Guard may award trophies, badges, and cash prizes to Coast Guard personnel or groups thereof, including personnel of the reserve components thereof whether or not on active duty, for excellence in accomplishments related to Coast Guard service, to incur such expenses as may be necessary to enter such personnel in competitions, and to provide badges or buttons in recognition of special service, good conduct, and discharge under conditions other than dishonorable.

(Aug. 4, 1949, ch. 393, 63 Stat. 537.)

§ 504. Medal of honor: duplicate medal

A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary may determine, as a duplicate or for display purposes only.


§ 505. Medal of honor: presentation of Medal of Honor Flag

The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 491 of this title. Presentation of the flag shall be made at the same time as the presentation of the medal under section 491 or 496 of this title. In the case of a posthumous presentation of the medal, the flag shall be presented to the person to whom the medal is presented.


Prior Provisions

A prior section 505, act Aug. 4, 1949, ch. 393, 63 Stat. 537, related to escorts to the place of burial for the bodies of deceased Coast Guard personnel, prior to repeal by act July 15, 1954, ch. 558, §16(c)(3), 68 Stat. 561. For provisions relating to recovery, care, and disposal of the remains of deceased personnel of the uniformed services and deceased civilian personnel, see section 1481 of Title 10, Armed Forces.

AMENDMENTS

2002—Pub. L. 107–248 struck out “after October 23, 2002” after “section 491 of this title” and inserted at end “In the case of a posthumous presentation of the medal, the flag shall be presented to the person to whom the medal is presented.”

2006—Pub. L. 109–364 substituted “October 23, 2002” for “the date of the enactment of this section”.

Presentation of Flag for Prior Recipients of Medal of Honor

President to provide for the presentation of the Medal of Honor Flag to living recipients of the Medal of Honor as expeditiously as possible after Oct. 17, 2006, and for posthumous presentation to survivors of deceased recipients of the Medal of Honor upon written application therefor, see section 555(b) of Pub. L. 109–364, set out as a note under section 3755 of Title 10, Armed Forces.


§ 507. Disposition of effects of decedents

All moneys, articles of value, papers, keepsakes, and other similar effects belonging to the deceased persons in the Coast Guard, not claimed by their legal heirs or next of kin, shall be deposited in safe custody, and if any such moneys, articles of value, papers, keepsakes, or other similar effects so deposited have been, or shall hereafter be, unclaimed for a period of two years from the date of the death of such person, such articles and effects shall be sold and the proceeds thereof, together with the moneys...
above mentioned, shall be deposited in the Treasury as miscellaneous receipts. The Secretary shall make diligent inquiry in every instance after the death of such person to ascertain the whereabouts of his heirs or next of kin, and prescribe necessary regulations to carry out the foregoing provisions. Claims may be presented hereunder at any time within five years after such moneys or proceeds have been so deposited in the Treasury, and, when supported by competent proof in any case after such deposit in the Treasury, shall be certified to Congress for consideration.

(Aug. 4, 1949, ch. 393, 63 Stat. 538.)

§ 508. Deserters; payment of expenses incident to apprehension and delivery; penalties

(a) The Coast Guard may, pursuant to regulations prescribed by the Secretary, make such expenditures as are deemed necessary for the apprehension and delivery of deserters, stragglers, and prisoners.

(b) No person who is convicted by court martial for desertion from the Coast Guard in time of war, and as the result of such conviction is dismissed or dishonorably discharged from the Coast Guard shall afterwards be enlisted, appointed, or commissioned in any military or naval service under the United States, unless the disability resulting from desertion, as established by this section is removed by a board of commissioned officers of the Coast Guard convened for consideration of the case, and the action of the Board is approved by the Secretary; or unless he is restored to duty in time of war.


AMENDMENTS
1952—Subsec. (a). Act July 10, 1952, authorized reimbursement of necessary expenses to persons other than civil officers, and added stragglers and prisoners to class of offenders.

Effective Date
Section effective May 31, 1951, see section 5 of act May 5, 1950.

§ 509. Persons discharged as result of court-martial; allowances to

The Secretary may furnish persons discharged pursuant to the sentence of a Coast Guard court-martial suitable civilian clothing and a monetary allowance not to exceed $25 if the person discharged would not otherwise have suitable clothing or funds to meet immediate needs.


AMENDMENTS
1968—Pub. L. 90–377 substituted “Persons discharged as result of court-martial; allowances to” for “Prisoners; allowances to; transportation” in section catch-line, and struck out provision that persons confined in prisons in pursuance of the sentence of a Coast Guard court shall during such confinement, be allowed a reasonable sum, not to exceed $3 per month, for necessary prison expenses and the provision that the Commandant of the Coast Guard may transport to their homes or places of enlistment, as he may designate, all discharged prisoners, the expense of such transportation to be paid out of any money to the credit of prisoners when discharged.

Effective Date
Section effective May 31, 1951, see section 5 of act May 5, 1950.

§ 510. Shore patrol duty; payment of expenses

An officer or cadet of the Coast Guard who is assigned shore patrol duty away from his vessel or other duty station may be paid his actual expenses.

(Added Aug. 10, 1956, ch. 1041, § 14(a), 70A Stat. 624.)

§ 511. Compensatory absence from duty for military personnel at isolated duty stations

The Secretary may grant compensatory absence from duty to military personnel of the Coast Guard serving at isolated duty stations of the Coast Guard when conditions of duty result in confinement because of isolation or in long periods of continuous duty.


AMENDMENTS
2002—Pub. L. 107–285 substituted “Compensatory absence from duty for military personnel at isolated duty stations” for “Compensatory absence from duty to military personnel of the Coast Guard serving in lightships and at lighthouses and other isolated aids to navigation of the Coast Guard in time of war” in section catch-line and amended text generally. Prior to amendment, text read as follows: “The Secretary, under regulations prescribed by him, may grant compensatory absence from duty to military personnel of the Coast Guard serving in lightships and at lighthouses and other isolated aids to navigation of the Coast Guard when conditions of duty result in confinement because of isolation or in long periods of continuous duty.”

1976—Pub. L. 94–546 substituted “Secretary” for “head of the department in which the Coast Guard is operating”.

§ 512. Monetary allowance for transportation of household effects

The transportation and reimbursement authorized by subsection (b) of section 476 of title 37 shall be available hereafter to pay a monetary allowance in place of such transportation to a member who, under regulations prescribed by the Secretary, participates in a program designated by the Secretary in which his baggage and household effects are moved by a privately owned or rental vehicle. This allowance shall not be limited to reimbursement for actual expenses and may be paid in advance of the transportation of the baggage and household effects. The allowance shall, however, be in an amount that will result in savings to the Government when the total cost of the movement of baggage and household effects is compared with the cost
that otherwise would have been incurred under subsection (b) of section 476 of title 37.


CODIFICATION

In text, “476” substituted for “406” pursuant to section 631(f)(4)(B) of Pub. L. 112–81, which provided that any reference in a provision of law other than a section of title 10, 32, or 37, United States Code, to a section of title 37 that was transferred and redesignated by “subsection (c)” of section 631 was deemed to refer to the section as so redesignated, notwithstanding that sections of title 37 were transferred and redesignated by subsection (d) of section 631 rather than subsection (c), to reflect the probable intent of Congress.

AMENDMENTS


§ 513. Retroactive payment of pay and allowances delayed by administrative error or oversight

Under regulations prescribed by the Secretary, the Coast Guard may authorize retroactive payment of pay and allowances, including selective reenlistment bonuses, to enlisted members if entitlement to the pay and allowances was delayed in vesting solely because of an administrative error or oversight.

(Added Pub. L. 100–448, §13(a), Sept. 28, 1988, 102 Stat. 1844.)

§ 514. Reimbursement for adoption expenses

(a) AUTHORIZATION TO REIMBURSE.—The Secretary shall carry out a program under which a member of the Coast Guard may be reimbursed, as provided in this section, for qualifying adoption expenses incurred by the member in the adoption of a child under 18 years of age.

(b) ADOPTIONS COVERED.—An adoption for which expenses may be reimbursed under this section includes an adoption by a single person, an infant adoption, an intercountry adoption, and an adoption of a child with special needs (as defined in section 473(c) of the Social Security Act (42 U.S.C. 673(c))).

(c) BENEFITS PAID AFTER ADOPTION IS FINAL.—Benefits paid under this section in the case of an adoption may be paid only after the adoption is final.

(d) TREATMENT OF OTHER BENEFITS.—A benefit may not be paid under this section for any expense paid to or for a member of the Coast Guard under any other adoption benefits program administered by the Federal Government or under any such program administered by a State or local government.

(e) LIMITATIONS.—(1) Not more than $2,000 may be paid under this section to a member of the Coast Guard, or to two such members who are spouses of each other, for expenses incurred in the adoption of a child.

(2) Not more than $5,000 may be paid under this section to a member of the Coast Guard, or to two such members who are spouses of each other, for adoptions by such member (or members) in any calendar year.

(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

(g) DEFINITIONS.—In this section:

(1) The term “qualifying adoption expenses” means reasonable and necessary expenses that are directly related to the legal adoption of a child under 18 years of age, but only if such adoption is arranged by a qualified adoption agency. Such term does not include any expense incurred—

(A) by an adopting parent for travel; or

(B) in connection with an adoption arranged in violation of Federal, State, or local law.

(2) The term “reasonable and necessary expenses” includes—

(A) public and private agency fees, including adoption fees charged by an agency in a foreign country;

(B) placement fees, including fees charged adoptive parents for counseling;

(C) legal fees (including court costs) in connection with services that are unavailable to a member of the Coast Guard under section 1044 or 1044a of title 10; and

(D) medical expenses, including hospital expenses of the biological mother of the child to be adopted and of a newborn infant to be adopted.

(3) The term “qualified adoption agency” means any of the following:

(A) A State or local government agency which has responsibility under State or local law for child placement through adoption.

(B) A nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption.

(C) Any other source authorized by a State to provide adoption placement if the adoption is supervised by a court under State or local law.


AMENDMENTS

1996—Subsec. (g)(1). Pub. L. 104–201, §652(b)(1), substituted “qualified adoption agency,” for “State or local government agency which has responsibility under State or local law for child placement through adoption or by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption.”


EFFECTIVE DATE

Section effective Dec. 5, 1991, and applicable to adoptions completed on or after that date, see section 651(c) of Pub. L. 102–190, set out as a note under section 1052 of Title 10, Armed Forces.

REIMBURSEMENT FOR ADOPTIONS COMPLETED DURING INTERIM BETWEEN TEST AND PERMANENT PROGRAM

For provisions relating to reimbursement for adoption expenses and time period for application, see sec-
§ 515. Child development services

(a) The Commandant may make child development services available for members and civilian employees of the Coast Guard, and thereafter as space is available for members of the Armed Forces and Federal civilian employees. Child development service benefits provided under the authority of this section shall be in addition to benefits provided under other laws.

(b)(1) The Commandant is authorized to use appropriated funds available to the Coast Guard to provide child development services.

(2)(A) The Commandant is authorized to establish, by regulations, fees to be charged parents for the attendance of children at Coast Guard child development centers.

(B) Fees to be charged, pursuant to subparagraph (A), shall be based on family income, except that the Commandant may, on a case-by-case basis, establish fees at lower rates if such rates would not be competitive with rates at local child development centers.

(C) The Commandant is authorized to collect and expend fees, established pursuant to this subparagraph, and such fees shall, without further appropriation, remain available until expended for the purpose of providing services, including the compensation of employees and the purchase of consumable and disposable items, at Coast Guard child development centers.

(3) The Commandant is authorized to use appropriated funds available to the Coast Guard to provide assistance to family home daycare providers so that family home daycare services can be provided to uniformed service members and civilian employees of the Coast Guard at a cost comparable to the cost of services provided by Coast Guard child development centers.

(c) The Commandant shall provide for regular and unannounced inspections of each child development center under this section and may use Department of Defense or other training programs to ensure that all child development center employees under this section meet minimum standards of training with respect to early childhood development, activities and disciplinary techniques appropriate to children of different ages, child abuse prevention and detection, and appropriate emergency medical procedures.

(d) The Secretary shall promulgate regulations to implement this section. The regulations shall establish fees to be charged for child development services provided under this section which take into consideration total family income.

(e) For purposes of this section, the term “child development center” does not include a child care services facility for which space is allotted under section 616 of the Act of December 22, 1987 (40 U.S.C. 490b).

(Added Pub. L. 104–234, title II, §201(a), Oct. 19, 1996, 110 Stat. 3906; amended Pub. L. 111–281, §222(2), 3, redesignated subsecs. (f) and (g) as (4) and (e), respectively, and struck out former subsecs. (d) and (e) which read as follows: “(d) Of the amounts available to the Coast Guard each fiscal year for operating expenses (and in addition to amounts received as fees), the Secretary may use for child development services under this section an amount not to exceed the total amount the Commandant estimates will be received by the Coast Guard in the fiscal year as fees for the provision of those services.” “(e) The Commandant may use appropriated funds available to the Coast Guard to provide assistance to family home day care providers so that family home day care services can be provided to uniformed service members and civilian employees of the Coast Guard at a cost comparable to the cost of services provided by Coast Guard child development centers.”

§ 516. Presentation of United States flag upon retirement

(a) PRESENTATION OF FLAG.—Upon the release of a member of the Coast Guard from active duty for retirement, the Secretary of Homeland Security shall present a United States flag to the member.

(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) No COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.


REFERENCES IN TEXT


AMENDMENTS

2010—Subsec. (b). Pub. L. 111–281, §222(1), added subsec. (b) and struck out former subsec. (b) which related to use of fees paid for services at Coast Guard child development centers.

Subsecs. (d) to (g). Pub. L. 111–281, §222(2), substituted changed subsec. (f) and (g) as follows: “(d) Of the amounts available to the Coast Guard each fiscal year for operating expenses (and in addition to amounts received as fees), the Secretary may use for child development services under this section an amount not to exceed the total amount the Commandant estimates will be received by the Coast Guard in the fiscal year as fees for the provision of those services.”

“(e) The Commandant may use appropriated funds available to the Coast Guard to provide assistance to family home day care providers so that family home day care services can be provided to uniformed service members and civilian employees of the Coast Guard at a cost comparable to the cost of services provided by Coast Guard child development centers.”

USE OF COAST GUARD AND MILITARY CHILD DEVELOPMENT CENTERS

Pub. L. 108–283, title II, §225, Aug. 9, 2004, 118 Stat. 1940, provided that: “The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, when operating other than as a service in the Navy, may agree to provide child care services to members of the armed forces, with reimbursement, in Coast Guard and military child development centers supported in whole or in part with appropriated funds...

For purposes of military child development centers operated under the authority of subchapter II of chapter 88 of title 10, United States Code, the child of a member of the Coast Guard shall be considered the same as the child of a member of any of the other armed forces.”

§ 517. Travel card management

(a) IN GENERAL.—The Secretary may require that travel or transportation allowances due a civilian employee or military member of the Coast Guard be disbursed directly to the issuer of a Federal contractor-issued travel charge card, but only in an amount not to exceed the authorized travel expenses charged by that Coast Guard member to that travel charge card issued to that employee or member.

(b) WITHHOLDING OF NONDISPUTED OBLIGATIONS.—The Secretary may also establish requirements similar to those established by the Secretary of Defense pursuant to section 2784a of title 10 for deduction or withholding of pay or retired pay from a Coast Guard employee, member, or retired member who is delinquent in payment of the amount of the delinquency.


§ 518. Reimbursement for medical-related travel expenses for certain persons residing on islands in the continental United States

In any case in which a covered beneficiary (as defined in section 1072(b) of title 10) resides on an island that is located in the 48 contiguous States and the District of Columbia and that lacks public access roads to the mainland and is referred by a primary care physician to a specialty care provider (as defined in section 1074i(b) of title 10) on the mainland who provides services less than 100 miles from the location where the beneficiary resides, the Secretary shall reimburse the reasonable travel expenses of the covered beneficiary and, when accompanied by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary’s family who is at least 21 years of age.


Prior Provisions

A prior chapter 15 of this title, consisting of sections 561 to 576 and relating to Coast Guard discipline, was repealed by act May 5, 1950, ch. 169, §14(v), 64 Stat. 148.

Subchapter II—Improved Acquisition Process and Procedures

§ 561. Acquisition directorate

(a) ESTABLISHMENT.—The Commandant of the Coast Guard shall establish an acquisition directorate to provide guidance and oversight for the implementation and management of all Coast Guard acquisition processes, programs, and projects.

(b) MISSION.—The mission of the acquisition directorate is—

(1) to acquire and deliver assets and systems that increase operational readiness, enhance mission performance, and create a safe working environment; and

(2) to assist in the development of a workforce that is trained and qualified to further the Coast Guard’s missions and deliver the best-value products and services to the Nation.


Prior Provisions


§ 562. Improvements in Coast Guard acquisition management

(a) PROJECT OR PROGRAM MANAGERS.—

(1) LEVEL 1 PROJECTS.—An individual may not be assigned as the project or program manager for a Level 1 acquisition unless the individual holds a Level III acquisition certification as a program manager.

(2) LEVEL 2 PROJECTS.—An individual may not be assigned as the project or program manager...
manager for a Level 2 acquisition unless the individual holds a Level II acquisition certification as a program manager.

(b) GUIDANCE ON TENURE AND ACCOUNTABILITY OF PROGRAM AND PROJECT MANAGERS.—

(1) ISSUANCE OF GUIDANCE.—Not later than one year after the date of enactment of the Coast Guard Authorization Act of 2010, the Commandant shall issue guidance to address the qualifications, resources, responsibilities, tenure, and accountability of program and project managers for the management of acquisition projects and programs. The guidance shall address, at a minimum—

(A) the qualifications required for program or project managers, including the number of years of acquisition experience and the professional training levels to be required of those appointed to project or program management positions;

(B) authorities available to project or program managers, including, to the extent appropriate, the authority to object to the addition of new program requirements that would be inconsistent with the parameters established for an acquisition program; and

(C) the extent to which a project or program manager who initiates a new acquisition project or program will continue in management of that project or program without interruption until the delivery of the first production units of the program.

(2) STRATEGY.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Commandant shall develop a comprehensive strategy for enhancing the role of Coast Guard project or program managers in developing and carrying out acquisition programs.

(B) MATTERS TO BE ADDRESSED.—The strategy required by this section shall address, at a minimum—

(i) the creation of a specific career path and career opportunities for individuals who are or may become project or program managers, including the rotational assignments that will be provided to project or program managers;

(ii) the provision of enhanced training and educational opportunities for individuals who are or may become project or program managers;

(iii) the provision of mentoring support to current and future project or program managers by experienced senior executives and program managers within the Coast Guard, and through rotational assignments to the Department of Defense;

(iv) the methods by which the Coast Guard will collect and disseminate best practices and lessons learned on systems acquisition to enhance project and program management throughout the Coast Guard;

(v) the templates and tools that will be used to support improved data gathering and analysis for project and program management and oversight purposes, including the metrics that will be utilized to assess the effectiveness of Coast Guard project or program managers in managing systems acquisition efforts; and

(vi) the methods by which the accountability of project or program managers for the results of acquisition projects and programs will be increased.

(c) ACQUISITION WORKFORCE.—

(1) IN GENERAL.—The Commandant shall designate a sufficient number of positions to be in the Coast Guard’s acquisition workforce to perform acquisition-related functions at Coast Guard headquarters and field activities.

(2) REQUIRED POSITIONS.—In designating positions under subsection (a), the Commandant shall include, at a minimum, positions encompassing the following competencies and functions:

(A) Program management.

(B) Systems planning, research, development, engineering, and testing.

(C) Procurement, including contracting.

(D) Industrial and contract property management.

(E) Life-cycle logistics.

(F) Quality control and assurance.

(G) Manufacturing and production.

(H) Business, cost estimating, financial management, and auditing.

(I) Acquisition education, training, and career development.

(J) Construction and facilities engineering.

(K) Testing and evaluation.

(d) ACQUISITION MANAGEMENT HEADQUARTER ACTIVITIES.—The Commandant shall also designate as positions in the acquisition workforce under paragraph (1) those acquisition-related positions located at Coast Guard headquarters units.

(e) APPROPRIATE EXPERTISE REQUIRED.—The Commandant shall ensure that each individual assigned to a position in the acquisition workforce has the appropriate expertise to carry out the responsibilities of that position.

(f) MANAGEMENT INFORMATION SYSTEM.—

(1) IN GENERAL.—The Commandant shall establish a management information system capability to improve acquisition workforce management and reporting.

(2) INFORMATION MAINTAINED.—Information maintained with such capability shall include the following standardized information on individuals assigned to positions in the workforce:

(A) Qualifications, assignment history, and tenure of those individuals assigned to positions in the acquisition workforce or holding acquisition-related certifications.

(B) Promotion rates for officers and members of the Coast Guard in the acquisition workforce.

(g) REPORT ON ADEQUACY OF ACQUISITION WORKFORCE.—

(1) IN GENERAL.—The Commandant shall report to the appropriate congressional committees and the Committee on Homeland Security of the House of Representatives by July 1 of each year on the scope of the acquisition activities to be performed in the next fiscal year.
and on the adequacy of the current acquisition workforce to meet that anticipated workload.

(2) CONTENTS.—The report shall—
(A) specify the number of officers, members, and employees of the Coast Guard currently and planned to be assigned to each position designated under subsection (c); and
(B) identify positions that are understaffed to meet the anticipated acquisition workload, and actions that will be taken to correct such understaffing.

(f) APPOINTMENTS TO ACQUISITION POSITIONS.—
The Commandant shall ensure that no requirement or preference for officers or members of the Coast Guard is used in the consideration of persons for positions in the acquisition workforce.

(g) CAREER PATHS.—
(1) IDENTIFICATION OF CAREER PATHS.—To establish acquisition management as a core competency of the Coast Guard, the Commandant shall—
(A) ensure that career paths for officers, members, and employees of the Coast Guard who wish to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression of those officers, members, and employees to the most senior positions in the acquisition workforce; and
(B) publish information on such career paths.

(2) PROMOTION PARITY.—The Commandant shall ensure that promotion parity is established for officers and members of the Coast Guard who have been assigned to the acquisition workforce relative to officers and members who have not been assigned to the acquisition workforce.


REFERENCES IN TEXT
The date of enactment of the Coast Guard Authorization Act of 2010 and the date of enactment of this section, referred to in subsection (b), is the date of enactment of Pub. L. 111–281, which was approved Oct. 15, 2010.

PRIOR PROVISIONS

AMENDMENTS

EFFECTIVE DATE OF 2010 AMENDMENT

§ 563. Recognition of Coast Guard personnel for excellence in acquisition

(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Coast Guard Authorization Act of 2010, the Commandant shall commence implementation of a program to recognize excellent performance by individuals and teams comprised of officers, members, and employees of the Coast Guard that contributed to the long-term success of a Coast Guard acquisition project or program.

(b) ELEMENTS.—The program shall include—
(1) specific award categories, criteria, and eligibility and manners of recognition;
(2) procedures for the nomination by personnel of the Coast Guard of individuals and teams comprised of officers, members, and employees of the Coast Guard for recognition under the program; and
(3) procedures for the evaluation of nominations for recognition under the program by one or more panels of individuals from the Government, academia, and the private sector who have such expertise and are appointed in such manner as the Commandant shall establish for the purposes of this program.

(c) AWARD OF CASH BONUSES.—As part of the program required by subsection (a), the Commandant, subject to the availability of appropriations, may award to any civilian employee recognized pursuant to the program a cash bonus to the extent that the performance of such individual so recognized warrants the award of such bonus.


REFERENCES IN TEXT
The date of enactment of the Coast Guard Authorization Act of 2010, referred to in subsec. (a), is the date of enactment of Pub. L. 111–281, which was approved Oct. 15, 2010.

PRIOR PROVISIONS

AMENDMENTS

EFFECTIVE DATE OF 2010 AMENDMENT

§ 564. Prohibition on use of lead systems integrators

(a) IN GENERAL.—Except as provided in subsection (b), the Commandant may not use a private sector entity as a lead systems integrator for an acquisition contract awarded or delivery order or task order issued after the date of enactment of the Coast Guard Authorization Act of 2010.

(b) FULL AND OPEN COMPETITION.—The Commandant and any lead systems integrator engaged by the Coast Guard, pursuant to the exceptions described in subsection (b), shall use full and open competition for any acquisition contract awarded after the date of enactment
of that Act, unless otherwise excepted in accordance with Federal acquisition laws and regulations promulgated under those laws, including the Federal Acquisition Regulation.

(3) No effect on small business Act.—Nothing in this subsection shall be construed to supersede or otherwise affect the authorities provided by and under the Small Business Act (15 U.S.C. 631 et seq.).

(b) Exceptions.—

(1) National distress and response system modernization program; C4ISR; national security cutters 2 and 3.—Notwithstanding subsection (a), the Commandant may use a private sector entity as a lead systems integrator for the Coast Guard to complete the National Distress and Response System Modernization Program (otherwise known as the “Rescue 21” program), the C4ISR projects directly related to the Integrated Deepwater program, and National Security Cutters 2 and 3, if the Secretary of the department in which the Coast Guard is operating certifies that—

(A) the acquisition is in accordance with Federal law and the Federal Acquisition Regulation; and

(B) the acquisition and the use of a private sector lead systems integrator for the acquisition is in the best interest of the Federal Government.

(2) Report on decisionmaking process.—If the Commandant uses a private sector lead systems integrator for an acquisition, the Commandant shall notify in writing the appropriate congressional committees of the Commandant’s determination and shall provide to such committees a detailed rationale for the determination, at least 30 days before the award of a contract or issuance of a delivery order or task order, using a private sector lead systems integrator, including a comparison of the cost of the acquisition through the private sector lead systems integrator with the expected cost if the acquisition were awarded directly to the manufacturer or shipyard. For purposes of that comparison, the cost of award 1 directly to a manufacturer or shipyard shall include the costs of Government contract management and oversight.

(c) Limitation on lead systems integrators.—Neither an entity performing lead systems integrator functions for a Coast Guard acquisition nor a Tier 1 subcontractor for any acquisition may have a financial interest in a subcontractor below the Tier 1 subcontractor level unless—

(1) the subcontractor was selected by the prime contractor through full and open competition for such procurement;

(2) the procurement was awarded by the lead systems integrator or a subcontractor through full and open competition;

(3) the procurement was awarded by a subcontractor through a process over which the lead systems integrator and a Tier 1 subcontractor exercised no control; or

(4) the Commandant has determined that the procurement was awarded in a manner consistent with Federal acquisition laws and regulations promulgated under those laws, including the Federal Acquisition Regulation.

(d) Termination date for exceptions.—Except as described in subsection (b)(1), the Commandant may not use a private sector entity as a lead systems integrator for acquisition contracts awarded, or task orders or delivery orders issued, after the earlier of—

(1) September 30, 2011; or

(2) the date on which the Commandant certifies in writing to the appropriate congressional committees that the Coast Guard has available and can retain sufficient acquisition workforce personnel and expertise within the Coast Guard, through an arrangement with other Federal agencies, or through contracts or other arrangements with private sector entities, to perform the functions and responsibilities of the lead systems integrator in an efficient and cost-effective manner.


References in Text


The Small Business Act, referred to in subsec. (a)(3), is Pub. L. 85–536, §§21 et seq., July 18, 1958, 72 Stat. 384, which is classified generally to chapter 14A (§631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

Prior Provisions


Amendments


Effective Date of 2010 Amendment


§ 565. Required contract terms

(a) In general.—The Commandant shall ensure that a contract awarded or a delivery order or task order issued for an acquisition of a capability or an asset with an expected service life of 10 or more years and with a total acquisition cost that is equal to or exceeds $10,000,000 awarded or issued by the Coast Guard after the date of enactment of the Coast Guard Authorization Act of 2010—

(1) provides that all certifications for an end-state capability or asset under such contract, delivery order, or task order, respectively, will be conducted by the Commandant or an independent third party, and that self-certification by a contractor or subcontractor is not allowed;

(2) provides that the Commandant shall maintain the authority to establish, approve, and maintain technical requirements;

1 So in original.
(3) requires that any measurement of contractor and subcontractor performance be based on the status of all work performed, including the extent to which the work performed met all performance, cost, and schedule requirements;
(4) specifies that, for the acquisition or upgrade of air, surface, or shore capabilities and assets for which compliance with TEMPEST certification is a requirement, the standard for determining such compliance will be the air, surface, or shore standard then used by the Department of the Navy for that type of capability or asset; and
(5) for any contract awarded to acquire an Offshore Patrol Cutter, includes provisions specifying the service life, fatigue life, and days underway in general Atlantic and North Pacific Sea conditions, maximum range, and maximum speed the cutter will be built to achieve.

(b) Prohibited Provisions.—
(1) In General.—The Commandant shall ensure that any contract awarded or delivery order or task order issued by the Coast Guard after the date of enactment of the Coast Guard Authorization Act of 2010 does not include any provision allowing for equitable adjustment that is not consistent with the Federal Acquisition Regulations.

(2) Extension of Program.—A contract, contract modification, or award term extending a contract with a lead systems integrator—
(A) may not include any minimum requirements for the purchase of a given or determinable number of specific capabilities or assets; and
(B) shall be reviewed by an independent third party with expertise in acquisition management, and the results of that review shall be submitted to the appropriate congressional committees at least 60 days prior to the award of the contract, contract modification, or award term.

(c) Integrated Product Teams.—Integrated product teams, and all teams that oversee integrated product teams, shall be chaired by officers, members, or employees of the Coast Guard.

(d) Technical Authority.—The Commandant shall maintain or designate the technical authority to establish, approve, and maintain technical requirements. Any such designation shall be made in writing and may not be delegated to the authority of the Chief Acquisition Officer established by section 56 of this title.


REFERENCES IN TEXT
The date of enactment of the Coast Guard Authorization Act of 2010, referred to in subsecs. (a) and (b)(1), is the date of enactment of Pub. L. 111–281, which was approved Oct. 15, 2010.

Prior Provisions

AMENDMENTS

Effective Date of 2010 Amendment

§ 566. Department of Defense consultation

(a) In General.—The Commandant shall make arrangements as appropriate with the Secretary of Defense for support in contracting and management of Coast Guard acquisition programs. The Commandant shall also seek opportunities to make use of Department of Defense contracts, and contracts of other appropriate agencies, to obtain the best possible price for assets acquired for the Coast Guard.

(b) Interservice Technical Assistance.—The Commandant shall seek to enter into a memorandum of understanding or a memorandum of agreement with the Secretary of the Navy to obtain the assistance of the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including the Navy Systems Command, with the oversight of Coast Guard major acquisition programs. The memorandum of understanding or memorandum of agreement shall, at a minimum, provide for—
(1) the exchange of technical assistance and support that the Assistant Commandants for Acquisition, Human Resources, Engineering, and Information technology may identify;
(2) the use, as appropriate, of Navy technical expertise; and
(3) the temporary assignment or exchange of personnel between the Coast Guard and the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including Naval Systems Command, to facilitate the development of organic capabilities in the Coast Guard.

(c) Technical Requirement Approval Procedures.—The Chief Acquisition Officer shall adopt, to the extent practicable, procedures modeled after those used by the Navy Senior Acquisition Official to approve all technical requirements.

(d) Assessment.—Within 180 days after the date of enactment of the Coast Guard Authorization Act of 2010, the Comptroller General of the United States shall transmit a report to the appropriate congressional committees that—
(1) contains an assessment of current Coast Guard acquisition and management capabilities to manage Level 1 and Level 2 acquisitions;
(2) includes recommendations as to how the Coast Guard can improve its acquisition management, either through internal reforms or by seeking acquisition expertise from the Department of Defense; and
(3) addresses specifically the question of whether the Coast Guard can better leverage Department of Defense or other agencies’ contracts that would meet the needs of Level 1 or Level 2 acquisitions in order to obtain the best possible price.

A contracting officer of the Coast Guard may not enter into an undefinitized contractual action unless the contractual action provides for agreement upon contractual terms, specifications, and price; or

(b) the date on which the amount of funds obligated under the contractual action is equal to more than 50 percent of the negotiated overall ceiling price for the contractual action.

(2) Limitation on obligations.—

(A) In general.—Except as provided in subparagraph (B), the contracting officer for an undefinitized contractual action may not obligate under such contractual action an amount that exceeds 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

(B) Exception.—Notwithstanding subparagraph (A), if a contractor submits a qualifying proposal to definitize an undefinitized contractual action before an amount that exceeds 50 percent of the negotiated overall ceiling price is obligated on such action, the contracting officer for such action may not obligate with respect to such contractual action an amount that exceeds 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

(3) Waiver.—The Commandant may waive the application of this subsection with respect to a contract if the Commandant determines that the waiver is necessary to support—

(A) a contingency operation (as that term is defined in section 101(a)(13) of title 10);

(B) operations to prevent or respond to a transportation security incident (as defined in section 70106 of title 46);

(C) an operation in response to an emergency that poses an unacceptable threat to human health or safety or to the marine environment; or

(D) an operation in response to a natural disaster or major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(4) Limitation on application.—This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

(d) Inclusion of nonurgent requirements.—

Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action by the Coast Guard for spare parts and support equipment that are needed on an urgent basis unless the Commandant approves such inclusion as being—

(1) good business practice; and

(2) in the best interests of the United States.

(e) Modification of scope.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the Commandant approves such modification as being—

(1) good business practice; and

(2) in the best interests of the United States.

(f) Allowable profit.—The Commandant shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

(g) Definitions.—In this section:

(1) Undefinitized contractual action.—

(A) In general.—Except as provided in subparagraph (B), the term “undefinitized contractual action” means a new procurement action entered into by the Coast Guard
for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action.

(B) EXCLUSION.—The term “undefined contractual action” does not include contractual actions with respect to—

(1) foreign military sales;

(ii) purchases in an amount not in excess of the amount of the simplified acquisition threshold; or

(iii) special access programs.

(2) QUALIFYING PROPOSAL.—The term “qualifying proposal” means a proposal that contains sufficient information to enable complete and meaningful audits of the information contained in the proposal as determined by the contracting officer.

References in Text


Prior Provisions


§ 568. Guidance on excessive pass-through charges

(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Coast Guard Authorization Act of 2010, the Commandant shall issue guidance to ensure that pass-through charges on contracts, subcontracts, delivery orders, and task orders that are entered into with a private entity acting as a lead systems integrator by or on behalf of the Coast Guard are not excessive in relation to the cost of work performed by the relevant contractor or subcontractor. The guidance shall, at a minimum—

(1) set forth clear standards for determining when, no, or negligible, value has been added to a contract by a contractor or subcontractor;

(2) set forth procedures for preventing the payment by the Government of excessive pass-through charges; and

(3) identify any exceptions determined by the Commandant to be in the best interest of the Government.

(b) EXCESSIVE PASS-THROUGH CHARGE DEFINED.—In this section the term “excessive pass-through charge”, with respect to a contractor or subcontractor that adds no, or negligible, value to a contract or subcontract, means a charge to the Government by the contractor or subcontractor that is for overhead or profit on work performed by a lower tier contractor or subcontractor, other than reasonable charges for the direct costs of managing lower tier contractors and subcontracts and overhead and profit based on such direct costs.

(c) APPLICATION OF GUIDANCE.—The guidance under this subsection shall apply to contracts awarded to a private entity acting as a lead systems integrator by or on behalf of the Coast Guard on or after the date that is 360 days after the date of enactment of the Coast Guard Authorization Act of 2010.

References in Text


Prior Provisions


Amendments


Effective Date of 2010 Amendment


§ 569. Report on former Coast Guard officials employed by contractors to the agency

(a) REPORT REQUIRED.—Not later than December 31, 2011, and annually thereafter, the Comptroller General of the United States shall submit a report to the appropriate congressional committees on the employment during the preceding year by Coast Guard contractors of individuals who were Coast Guard officials in the previous 5-year period. The report shall assess the extent to which former Coast Guard officials were provided compensation by Coast Guard contractors in the preceding calendar year.

(b) OBJECTIVES OF REPORT.—At a minimum, the report required by this section shall assess the extent to which former Coast Guard officials who receive compensation from Coast Guard contractors have been assigned by those contractors to work on contracts or programs between the contractor and the Coast Guard, including contracts or programs for which the former official personally had oversight responsibility or decisionmaking authority when they served in or worked for the Coast Guard.

(c) CONFIDENTIALITY REQUIREMENT.—The report required by this subsection shall not include the names of the former Coast Guard officials who receive compensation from Coast Guard contractors.

(d) ACCESS TO INFORMATION.—A Coast Guard contractor shall provide the Comptroller General access to information requested by the Comptroller General for the purpose of conducting the study required by this section.

(e) DEFINITIONS.—In this section:

(1) COAST GUARD CONTRACTOR.—The term “Coast Guard contractor” includes any person that received at least $10,000,000 in contractor awards from the Coast Guard in the calendar year covered by the annual report.

(2) COAST GUARD OFFICIAL.—The term “Coast Guard official” includes former officers of the
Coast Guard who were compensated at a rate of pay for grade O-7 or above during the calendar year prior to the date on which they separated from the Coast Guard, and former civilian employees of the Coast Guard who served at any Level of the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code, during the calendar year prior to the date on which they separated from the Coast Guard.


PRIOR PROVISIONS
Prior sections 569 and 570 were repealed by act May 5, 1950, ch. 169, §§ 5, 14(v), 64 Stat. 145, 148, effective May 31, 1951.

§ 572. Acquisition

(a) IN GENERAL.—The Commandant may not establish a Level 1 or Level 2 acquisition project or program until the Commandant—

(1) clearly defines the operational requirements for the project or program;

(2) establishes the feasibility of alternatives;

(3) develops an acquisition project or program baseline;

(4) produces a life-cycle cost estimate; and

(5) assesses the relative merits of alternatives to determine a preferred solution in accordance with the requirements of this section.

(b) SUBMISSION REQUIRED BEFORE PROCEEDING.—Any Coast Guard Level 1 or Level 2 acquisition project or program may not begin to obtain any capability or asset or proceed beyond that phase of its development that entails approving the supporting acquisition until the Commandant submits to the appropriate congressional committees the following:

(1) The key performance parameters, the key system attributes, and the operational performance attributes of the capability or asset to be acquired under the proposed acquisition project or program.

(2) A detailed list of the systems or other capabilities with which the capability or asset to be acquired is intended to be interoperable, including an explanation of the attributes of interoperability.

(3) The anticipated acquisition project or program baseline and acquisition unit cost for the capability or asset to be acquired under the project or program.

(4) A detailed schedule for the acquisition process showing when all capability and asset acquisitions are to be completed and when all acquired capabilities and assets are to be initially and fully deployed.

(c) ANALYSIS OF ALTERNATIVES.—

(1) IN GENERAL.—The Coast Guard may not acquire an experimental or technically immature capability or asset or implement a Level 1 or Level 2 acquisition project or program, unless it has prepared an analysis of alternatives for the capability or asset to be acquired in the concept and technology development phase of the acquisition process for the capability or asset.

(2) REQUIREMENTS.—The analysis of alternatives shall be prepared by a federally funded research and development center, a qualified entity of the Department of Defense, or a similar independent third-party entity that has appropriate acquisition expertise and has no financial interest in any part of the acquisition project or program that is the subject of

PRIOR PROVISIONS


§ 572. Identification of major system acquisitions

(a) IN GENERAL.—The Commandant shall develop and implement mechanisms to support the establishment of mature and stable operational requirements for all acquisitions.

(b) ELEMENTS.—The mechanisms required by subsection (a) shall ensure the implementation of a formal process for the development of a mission-needs statement, concept-of-operations document, capability development plan, and resource proposal for the initial project or program funding, and shall ensure the project or program is included in the Coast Guard Capital Investment Plan.

(2) ASSESSMENT OF TRADE-OFFS.—In conducting an affordability assessment under subsection (a)(2)(B), the Commandant shall develop and implement mechanisms to ensure that trade-offs among cost, schedule, and performance are considered in the establishment of preliminary operational requirements for development and production of new assets and capabilities for Level 1 and Level 2 acquisitions projects and programs.

(c) HUMAN RESOURCE CAPITAL PLANNING.—The Commandant shall develop staffing predictions, define human capital performance initiatives, and identify preliminary training needs required

PRIOR PROVISIONS

Sections 569 and 570 were repealed by act May 5, 1950, ch. 169, §§ 5, 14(v), 64 Stat. 145, 148, effective May 31, 1951.

§ 571. Identification of major system acquisitions

(a) IN GENERAL.—The Commandant shall develop and implement mechanisms to support the establishment of mature and stable operational requirements for all acquisitions.

(b) ELEMENTS.—The mechanisms required by subsection (a) shall ensure the implementation of a formal process for the development of a mission-needs statement, concept-of-operations document, capability development plan, and resource proposal for the initial project or program funding, and shall ensure the project or program is included in the Coast Guard Capital Investment Plan.

(2) ASSESSMENT OF TRADE-OFFS.—In conducting an affordability assessment under subsection (a)(2)(B), the Commandant shall develop and implement mechanisms to ensure that trade-offs among cost, schedule, and performance are considered in the establishment of preliminary operational requirements for development and production of new assets and capabilities for Level 1 and Level 2 acquisitions projects and programs.

(c) HUMAN RESOURCE CAPITAL PLANNING.—The Commandant shall develop staffing predictions, define human capital performance initiatives, and identify preliminary training needs required to implement each Level 1 and Level 2 acquisition project and program.


PRIOR PROVISIONS


§ 572. Acquisition

(a) IN GENERAL.—The Commandant may not establish a Level 1 or Level 2 acquisition project or program until the Commandant—

(1) clearly defines the operational requirements for the project or program;

(2) establishes the feasibility of alternatives;

(3) develops an acquisition project or program baseline;

(4) produces a life-cycle cost estimate; and

(5) assesses the relative merits of alternatives to determine a preferred solution in accordance with the requirements of this section.

(b) SUBMISSION REQUIRED BEFORE PROCEEDING.—Any Coast Guard Level 1 or Level 2 acquisition project or program may not begin to obtain any capability or asset or proceed beyond that phase of its development that entails approving the supporting acquisition until the Commandant submits to the appropriate congressional committees the following:

(1) The key performance parameters, the key system attributes, and the operational performance attributes of the capability or asset to be acquired under the proposed acquisition project or program.

(2) A detailed list of the systems or other capabilities with which the capability or asset to be acquired is intended to be interoperable, including an explanation of the attributes of interoperability.

(3) The anticipated acquisition project or program baseline and acquisition unit cost for the capability or asset to be acquired under the project or program.

(4) A detailed schedule for the acquisition process showing when all capability and asset acquisitions are to be completed and when all acquired capabilities and assets are to be initially and fully deployed.

(c) ANALYSIS OF ALTERNATIVES.—

(1) IN GENERAL.—The Coast Guard may not acquire an experimental or technically immature capability or asset or implement a Level 1 or Level 2 acquisition project or program, unless it has prepared an analysis of alternatives for the capability or asset to be acquired in the concept and technology development phase of the acquisition process for the capability or asset.

(2) REQUIREMENTS.—The analysis of alternatives shall be prepared by a federally funded research and development center, a qualified entity of the Department of Defense, or a similar independent third-party entity that has appropriate acquisition expertise and has no financial interest in any part of the acquisition project or program that is the subject of
§ 572

In General.—For any Level 1 or Level 2 acquisition project or program the Chief Acquisition Officer must approve a test and evaluation master plan specific to the acquisition project or program for the capability, asset, or subsystems of the capability or asset and intended to minimize technical, cost, and schedule risk as early as practicable in the development of the project or program.

(2) Test and Evaluation Strategy.—The master plan shall—

(A) set forth an integrated test and evaluation strategy that will verify that capability-level or asset-level and subsystem-level design and development, including performance and supportability, have been sufficiently proven before the capability, asset, or subsystem of the capability or asset is approved for production; and

(B) require that adequate developmental tests and evaluations and operational tests and evaluations established under subparagraph (A) are performed to inform production decisions.

(3) Other Components of the Master Plan.—At a minimum, the master plan shall identify—

(A) the key performance parameters to be resolved through the integrated test and evaluation strategy;

(B) critical operational issues to be assessed in addition to the key performance parameters;

(C) specific development test and evaluation phases and the scope of each phase;

(D) modeling and simulation activities to be performed, if any, and the scope of such activities;

(E) early operational assessments to be performed, if any, and the scope of such assessments;

(F) operational test and evaluation phases;

(G) an estimate of the resources, including funds, that will be required for all test, evaluation, assessment, modeling, and simulation activities; and

(H) the Government entity or independent entity that will perform the test, evaluation, assessment, modeling, and simulation activities.

(4) Update.—The Chief Acquisition Officer must approve an updated master plan whenever there is a revision to project or program test and evaluation strategy, scope, or phasing.

(5) Limitation.—The Coast Guard may not—

(A) proceed beyond that phase of the acquisition process that entails approving the supporting acquisition of a capability or asset before the master plan is approved by the Chief Acquisition Officer; or

(B) award any production contract for a capability, asset, or subsystem for which a master plan is required under this subsection before the master plan is approved by the Chief Acquisition Officer.

(e) Life-Cycle Cost Estimates.—

(1) In General.—The Commandant shall implement mechanisms to ensure the development and regular updating of life-cycle cost estimates for each acquisition with a total acquisition cost that equals or exceeds $10,000,000 and an expected service life of 10 or more years, and to ensure that these estimates are considered in decisions to develop or produce new or enhanced capabilities and assets.

(2) Types of Estimates.—In addition to life-cycle cost estimates that may be developed by acquisition program offices, the Commandant shall require that an independent life-cycle cost estimate be developed for each Level 1 or Level 2 acquisition project or program.

(3) Required Updates.—For each Level 1 or Level 2 acquisition project or program the Commandant shall require that life-cycle cost estimates shall be updated before each milestone decision is concluded and the project or program enters a new acquisition phase.

§ 573. Preliminary development and demonstration

(a) IN GENERAL.—The Commandant shall ensure that developmental test and evaluation, operational test and evaluation, life-cycle cost estimates, and the development and demonstration requirements applied by this chapter to acquisition projects and programs are met to confirm that the projects or programs meet the requirements identified in the mission-analysis and affordability assessments prepared under section 571(a)(2), the operational requirements developed under section 572(a)(1) and the following development and demonstration objectives:

(1) To demonstrate that the design, manufacturing, and production solution is based upon a stable, producible, and cost-effective product design.

(2) To ensure that the product capabilities meet contract specifications, acceptable operational performance requirements, and system security requirements.

(3) To ensure that the product design is mature enough to commit to full production and deployment.

(b) TESTS AND EVALUATIONS.—

(1) IN GENERAL.—The Commandant shall ensure that the Coast Guard conducts developmental tests and evaluations and operational tests and evaluations of a capability or asset and the subsystems of the capability or asset in accordance with the master plan prepared for the capability or asset under section 572(d)(1).

(2) USE OF THIRD PARTIES.—The Commandant shall ensure that the Coast Guard uses independent third parties with expertise in testing and evaluating the capabilities or assets and the subsystems of the capabilities or assets being acquired to conduct developmental tests and evaluations and operational tests and evaluations whenever the Coast Guard lacks the capability to conduct the tests and evaluations required by a master plan.

(3) COMMUNICATION OF SAFETY CONCERNS.—The Commandant shall require that safety concerns identified during developmental or operational tests and evaluations or through independent or Government-conducted design assessments of capabilities or assets and subsystems of capabilities or assets to be acquired by the Coast Guard shall be communicated as soon as practicable, but not later than 30 days after the completion of the test or assessment event or activity that identified the safety concern, to the program manager for the capability or asset and the subsystems concerned and to the Chief Acquisition Officer.

(4) REPORTING OF SAFETY CONCERNS.—Any safety concerns that have been reported to the Chief Acquisition Officer for an acquisition program or project shall be reported by the Commandant to the appropriate congressional committees at least 90 days before the award of any contract or issuance of any delivery order or task order for low, initial, or full-rate production of the capability or asset concerned if they will remain uncorrected or unmitigated at the time such a contract is awarded or delivery order or task order is issued. The report shall include a justification for the approval of that level of production of the capability or asset before the safety concerns are corrected or mitigated. The report shall also include an explanation of the actions that will be taken to correct or mitigate the safety concerns, the date by which those actions will be taken, and the adequacy of current funding to correct or mitigate the safety concerns.

(b) TESTS AND EVALUATIONS.—

(1) IN GENERAL.—The Commandant shall ensure that the Coast Guard conducts developmental tests and evaluations and operational tests and evaluations of a capability or asset and the subsystems of the capability or asset in accordance with the master plan prepared for the capability or asset under section 572(d)(1) and the following development and demonstration objectives:

(1) To demonstrate that the design, manufacturing, and production solution is based upon a stable, producible, and cost-effective product design.

(2) To ensure that the product capabilities meet contract specifications, acceptable operational performance requirements, and system security requirements.

(3) To ensure that the product design is mature enough to commit to full production and deployment.

(b) TESTS AND EVALUATIONS.—

(1) IN GENERAL.—The Commandant shall ensure that the Coast Guard conducts developmental tests and evaluations and operational tests and evaluations of a capability or asset and the subsystems of the capability or asset in accordance with the master plan prepared for the capability or asset under section 572(d)(1).

(2) USE OF THIRD PARTIES.—The Commandant shall ensure that the Coast Guard uses independent third parties with expertise in testing and evaluating the capabilities or assets and the subsystems of the capabilities or assets being acquired to conduct developmental tests and evaluations and operational tests and evaluations whenever the Coast Guard lacks the capability to conduct the tests and evaluations required by a master plan.

(3) COMMUNICATION OF SAFETY CONCERNS.—The Commandant shall require that safety concerns identified during developmental or operational tests and evaluations or through independent or Government-conducted design assessments of capabilities or assets and subsystems of capabilities or assets to be acquired by the Coast Guard shall be communicated as soon as practicable, but not later than 30 days after the completion of the test or assessment event or activity that identified the safety concern, to the program manager for the capability or asset and the subsystems concerned and to the Chief Acquisition Officer.

(4) REPORTING OF SAFETY CONCERNS.—Any safety concerns that have been reported to the Chief Acquisition Officer for an acquisition program or project shall be reported by the Commandant to the appropriate congressional committees at least 90 days before the award of any contract or issuance of any delivery order or task order for low, initial, or full-rate production of the capability or asset concerned if they will remain uncorrected or unmitigated at the time such a contract is awarded or delivery order or task order is issued. The report shall include a justification for the approval of that level of production of the capability or asset before the safety concerns are corrected or mitigated. The report shall also include an explanation of the actions that will be taken to correct or mitigate the safety concerns, the date by which those actions will be taken, and the adequacy of current funding to correct or mitigate the safety concerns.

(5) ASSET ALREADY IN LOW, INITIAL, OR FULL-RATE PRODUCTION.—If operational test and evaluation of a capability or asset already in low, initial, or full-rate production shall—

(A) notify the program manager and the Chief Acquisition Officer of the safety concern as soon as practicable, but not later than 30 days after the completion of the test and evaluation event or activity that identified the safety concern; and

(B) notify the Chief Acquisition Officer and include in such notification—

(i) an explanation of the actions that will be taken to correct or mitigate the safety concern in all capabilities or assets and subsystems of the capabilities or assets yet to be produced and the date by which those actions will be taken;

(ii) an explanation of the actions that will be taken to correct or mitigate the safety concern in previously produced capabilities or assets and subsystems of the capabilities or assets and the date by which those actions will be taken; and

(iii) an assessment of the adequacy of current funding to correct or mitigate the safety concern in capabilities or assets and subsystems of the capabilities or assets and in previously produced capabilities or assets and subsystems.

(c) TECHNICAL CERTIFICATION.—

(1) IN GENERAL.—The Commandant shall ensure that any Level 1 or Level 2 acquisition project or program is certified by the technical authority of the Coast Guard after review by an independent third party with capabilities in the mission area, asset, or particular asset component.

(2) TEMPEST TESTING.—The Commandant shall—

(A) cause all electronics on all aircraft, surface, and shore capabilities and assets that require TEMPEST certification and that are delivered after the date of enactment of the Coast Guard Authorization Act of 2010 to be tested in accordance with TEMPEST standards and communications security (comsec) standards by an independent third party that is authorized by the Federal Government to perform such testing; and

(B) certify that the assets meet all applicable TEMPEST requirements.

(3) CUTTER CLASSIFICATION.—
§ 574 Acquisition, production, deployment, and support

(a) In General.—The Commandant shall—

(1) ensure there is a stable and efficient production and support capability to develop an asset or capability for the Coast Guard;

(2) conduct follow-on testing to confirm and monitor performance and correct deficiencies; and

(3) conduct acceptance tests and trials prior to the delivery of each asset or system to ensure the delivered asset or system achieves full operational capability.

(b) Elements.—The Commandant shall—

(1) execute production contracts;

(2) ensure that delivered assets and capabilities meet operational cost and schedules requirements established in the acquisition program baseline;

(3) validate manpower and training requirements to meet system needs to operate, maintain, support, and instruct the assets or capabilities; and

(4) prepare an acquisition project or program transition plan to enter into programmatic sustainment, operations, and support.


PRIOR PROVISIONS


§ 575. Acquisition program baseline breach

(a) In General.—The Commandant shall submit a report to the appropriate congressional committees and the Committee on Homeland Security of the House of Representatives as soon as possible, but not later than 30 days, after the Chief Acquisition Officer of the Coast Guard becomes aware of the breach of an acquisition program baseline for any Level 1 or Level 2 acquisition program, by—

(1) a likely cost overrun greater than 15 percent of the acquisition program baseline for that individual capability or asset or a class of capabilities or assets;

(2) a likely delay of more than 180 days in the delivery schedule for any individual capability or asset or class of capabilities or assets; or

(3) an anticipated failure for any individual capability or asset or class of capabilities or assets to satisfy any key performance threshold or parameter under the acquisition program baseline.

(b) Content.—The report submitted under subsection (a) shall include—

(1) a detailed description of the breach and an explanation of its cause;

(2) the projected impact to performance, cost, and schedule;

(3) an updated acquisition program baseline and the complete history of changes to the original acquisition program baseline;

(4) the updated acquisition schedule and the complete history of changes to the original schedule;

(5) a full life-cycle cost analysis for the capability or asset or class of capabilities or assets;

(6) a remediation plan identifying corrective actions and any resulting issues or risks; and

(7) a description of how progress in the remediation plan will be measured and monitored.

(c) Substantial Variations in Costs or Schedule.—If a likely cost overrun is greater than 20 percent or a likely delay is greater than 12 months from the costs and schedule described in the acquisition program baseline for any Level 1 or Level 2 acquisition project or program of the Coast Guard, the Commandant shall include in the report a written certification, with a supporting explanation, that—

(1) the capability or asset or capability or asset class to be acquired under the project or program is essential to the accomplishment of Coast Guard missions;
(2) there are no alternatives to such capability or asset or capability or asset class that will provide equal or greater capability in both a more cost-effective and timely manner;

(3) the new acquisition schedule and estimates for total acquisition cost are reasonable; and

(4) the management structure for the acquisition program is adequate to manage and control performance, cost, and schedule.


§ 576. Acquisition approval authority

Nothing in this subchapter shall be construed as altering or diminishing in any way the statutory authority and responsibility of the Secretary of the department in which the Coast Guard is operating, or the Secretary’s designee, to—

(1) manage and administer department procurements, including procurements by department components, as required by section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341); or

(2) manage department acquisition activities and act as the Acquisition Decision Authority with regard to the review or approval of a Coast Guard Level 1 or Level 2 acquisition project or program, as required by section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414) and related implementing regulations and directives.


§ 577. Prior provisions


§ 576. Acquisition approval authority

Nothing in this subchapter shall be construed as altering or diminishing in any way the statutory authority and responsibility of the Secretary of the department in which the Coast Guard is operating, or the Secretary’s designee, to—

(1) manage and administer department procurements, including procurements by department components, as required by section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341); or

(2) manage department acquisition activities and act as the Acquisition Decision Authority with regard to the review or approval of a Coast Guard Level 1 or Level 2 acquisition project or program, as required by section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414) and related implementing regulations and directives.


REFERENCES IN TEXT

Section 16 of the Office of Federal Procurement Policy Act, referred to in par. (2), is section 16 of Pub. L. 93–400, which was classified to section 414 of former Title 41, Public Contracts, and was repealed and reenacted as section 1702 of Title 41, Public Contracts, by Pub. L. 111–350, §§5, 14(v), 64 Stat. 145, 148, effective May 31, 1951.

§ 575. Prior provisions


SUBCHAPTER III—DEFINITIONS

§ 581. Definitions

In this chapter:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) CHIEF ACQUISITION OFFICER.—The term “Chief Acquisition Officer” means the officer appointed under section 56 of this title.

(3) COMMANDANT.—The term “Commandant” means the Commandant of the Coast Guard.

(4) LEVEL 1 ACQUISITION.—The term “Level 1 acquisition” means—

(A) an acquisition by the Coast Guard—

(i) the estimated life-cycle costs of which exceed $1,000,000,000; or

(ii) the estimated total acquisition costs of which exceed $300,000,000; or

(B) any acquisition that the Chief Acquisition Officer of the Coast Guard determines to have a special interest—

(i) due to—

(I) the experimental or technically immature nature of the asset;

(II) the technological complexity of the asset;

(III) the commitment of resources; or

(IV) the nature of the capability or set of capabilities to be achieved; or

(ii) because such acquisition is a joint acquisition.

(5) LEVEL 2 ACQUISITION.—The term “Level 2 acquisition” means an acquisition by the Coast Guard—

(A) the estimated life-cycle costs of which are equal to or less than $1,000,000,000, but greater than $300,000,000; or

(B) the estimated total acquisition costs of which are equal to or less than $300,000,000, 1 but greater than $100,000,000.

(6) LIFE-CYCLE COST.—The term “life-cycle cost” means all costs for development, procurement, construction, and operations and support for a particular capability or asset, without regard to funding source or management control.

(7) PROJECT OR PROGRAM MANAGER DEFINED.—The term “project or program manager” means an individual designated—

(A) to develop, produce, and deploy a new asset to meet identified operational requirements; and

(B) to manage cost, schedule, and performance of the acquisition, project, or program.

(8) SAFETY CONCERN.—The term “safety concern” means any hazard associated with a capability or asset or a subsystem of a capability or asset that is likely to cause serious bodily injury or death to a typical Coast Guard user in testing, maintaining, repairing, or operating the capability, asset, or subsystem or any hazard associated with the capability, asset, or subsystem that is likely to cause major damage to the capability, asset, or subsystem during the course of its normal operation by a typical Coast Guard user.

(9) DEVELOPMENTAL TEST AND EVALUATION.—The term “developmental test and evaluation” means—

(A) the testing of a capability or asset and the subsystems of the capability or asset to determine whether they meet all contractual performance requirements, including technical performance requirements, supportability requirements, and interoperability requirements and related specifications; and

1 See References in Text note below.

1 So in original.
(B) the evaluation of the results of such testing.

(10) OPERATIONAL TEST AND EVALUATION.— The term "operational test and evaluation" means—

(A) the testing of a capability or asset and the subsystems of the capability or asset, under conditions similar to those in which the capability or asset and subsystems will actually be deployed, for the purpose of determining the effectiveness and suitability of the capability or asset and subsystems for use by typical Coast Guard users to conduct those missions for which the capability or asset and subsystems are intended to be used; and

(B) the evaluation of the results of such testing.


CHAPTER 17—ADMINISTRATION

Sec. 631. Delegation of powers by the Secretary.

632. Functions and powers vested in the Commandant.

633. Regulations.

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635. Oaths required for boards.

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638. Coast Guard ensigns and pennants.

639. Penalty for unauthorized use of words "Coast Guard".

640. Coast Guard band recordings for commercial sale.

641. Disposal of certain material.

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646. Admiralty claims against the United States.

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652. Removing restrictions.

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654. Public and commercial vessels and other watercraft; sale of fuel, supplies, and services.

655. Arms and ammunition; immunity from taxation.

656. Use of moneys appropriated for acquisition, construction, and improvement; for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters.

657. Dependent school children.

658. Confidential investigative expenses.

659. Assistance to film producers.

660. Transportation to and from certain places of employment.

661. Authorization of personnel end strengths.

662. Requirement for prior authorization of appropriations.

663. Submission of plans to Congress.

664. User fees.

665. Restriction on construction of vessels in foreign shipyards.

Sec. 666. Local hire.

667. Vessel construction bonding requirements.


669. Telephone Installation and Charges.

670. Procurement authority for family housing.

671. Air Station Cape Cod Improvements.

672. Long-term lease of special purpose facilities.

672a. Long-term lease authority for lighthouse property.

673. Designation, powers, and accountability of deputy disbursing officials.

674. Small boat station capability.

675. Small boat station closures.

676. Search and rescue center standards.

677. Turnkey selection procedures.

AMENDMENTS


Pub. L. 107–296, title IV, §§ 405(c), 417(b), Nov. 25, 2002, 116 Stat. 2146, 2123, added items 672a and 674 to 676, and struck out item 673 "Small boat station rescue capability" and former item 674 "Small boat station closures".


1992—Pub. L. 102–587, title V, §§ 5203(b), 5204(b), Nov. 4, 1992, 106 Stat. 2574, added items 672 and 675, and struck out item 673 "Small boat station rescue capability" and former item 674 "Small boat station closures".


1988—Pub. L. 100–448, §§ 26(b), 28(b), Sept. 28, 1988, 102 Stat. 4485, substituted "immunity for firing at or into vessel" for "immunity of Coast Guard officer" in item 637.

Pub. L. 100–448, §§ 26(b), 28(b), Sept. 28, 1988, 102 Stat. 4485, substituted "immunity for firing at or into vessel" for "immunity of Coast Guard officer" in item 637.

Pub. L. 100–448, §§ 26(b), 28(b), Sept. 28, 1988, 102 Stat. 4485, substituted "immunity for firing at or into vessel" for "immunity of Coast Guard officer" in item 637.


1 So in original. Capitalization does not conform to section catchline.

2 So in original. Does not conform to section catchline.
§ 631. Delegation of powers by the Secretary

The Secretary is authorized to confer or impose upon the Commandant any of the rights, privileges, powers, or duties, in respect to the administration of the Coast Guard, vested in or imposed upon the Secretary by this title or other provisions of law.

(Aug. 4, 1949, ch. 393, 63 Stat. 545.)

HISTORICAL AND REVISION NOTES

This section authorizes the Secretary to delegate to the Commandant any of the authority granted to him in respect to the administration of the Coast Guard, such power to delegate is granted by other statutes to the heads of many of the executive departments. 81st Congress, House Report No. 557.

AMENDMENTS

1976—Pub. L. 94–546 substituted “Secretary” for “Secretary of the Treasury” wherever appearing and substituted “Commandant” for “Commandant of the Coast Guard”.

HISTORICAL AND REVISION NOTES


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

§ 632. Functions and powers vested in the Commandant

All powers and functions conferred upon the Coast Guard, or the Commandant, by or pursuant to this title or any other law shall, unless otherwise specifically stated, be executed by the Commandant subject to the general supervision of the Secretary. In order to execute the powers and functions vested in him, the Commandant may assign personnel of the Coast Guard to duty in the District of Columbia, elsewhere in the United States, in any territory of the United States, and in any foreign country, but such personnel shall not be assigned to duties in any foreign country without the consent of the government of that country; assign to such personnel such duties and authority as he deems necessary; and issue rules, orders, and instructions, not inconsistent with law, relating to the organization, internal administration, and personnel of the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 545.)

HISTORICAL AND REVISION NOTES


This section is primarily a consolidation of existing functions rather than a codification of existing laws. It does not, for the most part, grant new authority to the Coast Guard as an organization. It merely clarifies the method by which Coast Guard functions shall be administered. Under existing statutes, functions relating to the Coast Guard have been conferred upon the President, the Secretary of the Treasury, and the Commandant, and sometimes upon the Secretary of the Treasury in times of peace and the Secretary of the Navy in times of war. This revision confers some functions directly upon the Coast Guard, and this section provides for the execution of those functions by the Commandant, the military head of the organization, thereby making for consistency and uniformity. The functions are to be executed “subject to the general supervision of the Secretary.” Title 14, U.S.C., 1946 ed., §91 now grants authority to the Commandant to prescribe regulations; this is changed to the issuance of rules, orders, and instructions as the promulgation of regulations in a military organization is properly a function of the Secretary.

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

§ 633. Regulations

In addition to the authority conferred by other provisions of this title the Secretary may promulgate such regulations and orders as he deems appropriate to carry out the provisions of
this title or any other law applicable to the Coast Guard.
(Aug. 4, 1949, ch. 393, 63 Stat. 545.)

HISTORICAL AND REVISION NOTES

This section enlarges said sections to prescribe what is generally understood in a military organization, that the promulgation of regulations is a function of the head of the Department. Changes were made in phraseology. 81st Congress, House Report No. 557.

§ 634. Officers holding certain offices
(a) Any officer, including any petty officer, may be designated by the Commandant as captain of the port or ports or adjacent high seas or waters over which the United States has jurisdiction, as the Commandant deems necessary to facilitate execution of Coast Guard duties.
(b) Commissioned officers may be appointed as United States Deputy Marshals in Alaska.

HISTORICAL AND REVISION NOTES
1949 ACT

Subsection (b) is derived from the last 6 lines of title 48, U.S.C., 1946 ed., §1460 (July 31, 1939, ch. 399, 53 Stat. 1143). An additional provision is added waiving the requirement of a performance bond inasmuch as Coast Guard officers appointed as United States commissioners or marshals are not custodians of funds, and in any case their oath as a commissioned officer appears to be sufficient to insure faithful performance of duty.

Changes were made in phraseology. 81st Congress, House Report No. 557.
1982 ACT
This amends 14:634(b) to reflect the effect of 28:631(c) and sections 48(a) and 482(a) of the Federal Magistrates Act (Pub. L. 90–578, Oct. 17, 1968, 82 Stat. 1118).

AMENDMENTS
1962—Subsec. (b). Pub. L. 97–295 struck out “United States Commissioners or” after “appointed as” and last sentence which provided that any commissioned officer appointed as United States Commissioner in Alaska shall not be required to execute a bond for the faithful performance of his official duties as such Commissioner.

§ 635. Oaths required for boards
The members of a retiring board, selection board, examining board, and any other board authorized to be assembled pursuant to this title shall be sworn to discharge their duties honestly and impartially, the oath to be administered to the members by the President or other presiding officer of the board, and to him by the junior member or recorder.
(Aug. 4, 1949, ch. 393, 63 Stat. 545.)

HISTORICAL AND REVISION NOTES

Said section has been divided. That part relating to oaths is covered in this section. The remainder is covered in section 425 of this title.
Said section is enlarged to include the oaths required for all boards, rather than to cover retiring boards only. 81st Congress, House Report No. 557.

§ 636. Administration of oaths
(a) Such commissioned and warrant officers of the Coast Guard as may be designated by the Commandant may, pursuant to rules prescribed by the Commandant, exercise the general powers of a notary public in the administration of oaths for the following purposes:

1. execution, acknowledgment, and attestation of instruments and papers, oaths of allegiance in connection with recruiting, oaths in connection with courts and boards, and all other notarial acts in connection with the proper execution of Coast Guard functions;
2. execution, acknowledgment, and attestation of instruments and papers, and all other notarial acts in time of war or national emergency; and
3. execution, acknowledgment, and attestation of instruments and papers, and all other notarial acts in Alaska and places beyond the continental limits of the United States where the Coast Guard is serving.

(b) No fee of any character shall be charged by any commissioned or warrant officer for performing notarial acts. The signature and indication of grade of any commissioned or warrant officer performing any notarial act shall be prima facie evidence of his authority.
(Aug. 4, 1949, ch. 393, 63 Stat. 545.)

HISTORICAL AND REVISION NOTES

Said sections are rewritten, the provisions concerning oaths being broadened to conform more closely to law applicable to officers of the Navy (see title 34, U.S.C., 1946 ed., §217a). 81st Congress, House Report No. 557.

§ 637. Stopping vessels; indemnity for firing at or into vessel
(a) Whenever any vessel liable to seizure or examination does not stop on being ordered to do so or on being pursued by an authorized vessel or authorized aircraft which has displayed the ensign, pennant, or other identifying insignia prescribed for an authorized vessel or authorized aircraft, the person in command or in charge of the authorized vessel or authorized aircraft may, subject to paragraph (2), fire at or into the vessel which does not stop.

1. Before firing at or into a vessel as authorized in paragraph (1), the person in command or in charge of the authorized vessel or authorized aircraft shall fire a gun as a warning signal, except that the prior firing of a gun as a warning signal is not required if that person determines that the firing of a warning signal would unreasonably endanger persons or property in the vicinity of the vessel to be stopped.

(b) The person in command of an authorized vessel or authorized aircraft and all persons acting under that person’s direction shall be indem-
nified from any penalties or actions for damages for firing at or into a vessel pursuant to subsection (a). If any person is killed or wounded by the firing, and the person in command of the authorized vessel or authorized aircraft or any person acting pursuant to the orders is prosecuted or arrested therefor, they shall be forthwith admitted to bail.

(c) A vessel or aircraft is an authorized vessel or authorized aircraft for purposes of this section if—

(1) it is a Coast Guard vessel or aircraft;

(2) it is a surface naval vessel or military aircraft on which one or more members of the Coast Guard are assigned pursuant to section 379 of title 10; or

(3) any other vessel or aircraft on government noncommercial service when—

(A) the vessel or aircraft is under the tactical control of the Coast Guard; and

(B) at least one member of the Coast Guard is assigned and conducting a Coast Guard mission on the vessel or aircraft.


HISTORICAL AND REVISION NOTES


Aircraft are included within the protective terms of this section which permits aircraft to stop vessels but makes no provision for stopping aircraft.

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

AMENDMENTS


Subsec. (a), Pub. L. 106–65, §1205(a), designated existing provisions as par. (1), substituted “subject to paragraph (2)” for “after a gun has been fired by the authorized vessel or authorized aircraft as a warning signal,” and added par. (2).

Subsec. (c). Pub. L. 108–293, §205(b), inserted “or” after the semicolon at end of par. (1), inserted “or military aircraft” after “surface naval vessel” and substituted a period for “;” or in par. (2), and struck out par. (3) which read as follows: “subject to subsection (d), it is a naval aircraft that has one or more members of the Coast Guard on board and is operating from a surface naval vessel described in paragraph (2).”

Subsec. (d). Pub. L. 108–293, §205(c), struck out subsec. (d) which related to inclusion of naval aircraft as authorized aircraft for purposes of this section.


1990—Pub. L. 100–690 substituted “immunity for firing at or into vessel” for “immunity of Coast Guard officer” in section catchline, and amended text generally. Prior to amendment, text read as follows:

“(a) Whenever any vessel liable to seizure or examination does not bring to, on being ordered to do so or on being chased by any Coast Guard vessel or aircraft which has displayed the ensign, pennant, or other identifying insignia prescribed for vessels or aircraft of the Coast Guard, the person in command or in charge of such Coast Guard vessel or such Coast Guard aircraft may, after a gun has been fired by the Coast Guard vessel or aircraft as a warning signal, fire at or into such vessel which does not bring-to.

“(b) The person in command of such Coast Guard vessel or such Coast Guard aircraft and all persons acting by or under his direction shall be indemnified from any penalties or actions for damages for so doing. If any person is killed or wounded by such firing, and the person in command of the Coast Guard vessel or aircraft or any person acting pursuant to his orders is prosecuted or arrested therefor, he shall be forthwith admitted to bail.”

REPORT ON VESSELS OR AIRCRAFT FIRED AT OR INTO WITHOUT WARNING

Pub. L. 108–293, title II, §205(d), Aug. 9, 2004, 118 Stat. 1033, which required the Commandant of the Coast Guard to transmit an annual report to Congress describing the location, vessels or aircraft, circumstances, and consequences of each incident in which an authorized vessel or an authorized aircraft fired at or into a vessel without prior use of the warning signal as authorized by this section, was repealed by Pub. L. 111–207, §4(a)(5), July 27, 2010, 124 Stat. 2321.

1 So in original. Probably should be preceded by “it is.”

§638. Coast Guard ensigns and pennants

(a) Vessels and aircraft authorized by the Secretary shall be distinguished from other vessels and aircraft by an ensign, pennant, or other identifying insignia of such design as prescribed by the Secretary. Such ensign, pennant, or other identifying insignia shall be displayed in accordance with regulations prescribed by the Secretary.

(b) No vessel or aircraft without authority shall carry, hoist, or display any ensign, pennant, or other identifying insignia prescribed for, or intended to resemble, any ensign, pennant, or other identifying insignia prescribed for Coast Guard vessels or aircraft. Every person violating this subsection shall be fined not more than $5,000, or imprisoned for not more than two years, or both.


HISTORICAL AND REVISION NOTES


Aircraft are included within the provisions of this section.

The Secretary rather than the President is given the authority to design ensigns and pennants.

Unauthorized display of such insignia is made illegal anywhere rather than only “within the jurisdiction of the United States”.

The language is broadened to include “any person violating this section”: existing law applies to masters of offending vessels only. 81st Congress, House Report No. 557.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–281 substituted “Vessels and aircraft authorized by the Secretary” for “Coast Guard vessels and aircraft”.

§639. Penalty for unauthorized use of words “Coast Guard”

No individual, association, partnership, or corporation shall, without authority of the Com-
§ 640. Coast Guard band recordings for commercial sale

(a) The Coast Guard band may produce recordings for commercial sale.

(b) Amounts received as proceeds from the sale of any such recordings may be credited to applicable appropriations of the Coast Guard for expenses of the Coast Guard band.

(c) The Secretary shall prescribe regulations governing the accounting of such proceeds.


Prior Provisions


§ 641. Disposal of certain material

(a) The Commandant subject to applicable regulations under subtitle I of title 40 and division C (except sections 3302, 3301(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 may dispose of, with or without charge, to the Coast Guard Auxiliary, including any incorporated unit thereof, to the sea-scout service of the Boy Scouts of America, and to any public body or private organization not organized for profit having an interest therein for historical or other special reasons, such obsolete or other material as may not be needed for the Coast Guard.

(b) The Commandant may, under regulations prescribed by the Secretary, sell apparatus or equipment manufactured by or in use in the Coast Guard, which is not readily procurable in the open market. The money received from such sale shall be deposited in the Treasury to the credit of the current appropriation from which purchase of similar apparatus or equipment is authorized.

(1) The Commandant may—

(A) provide for the sale of recyclable materials that the Coast Guard holds;

(B) provide for the operation of recycling programs at Coast Guard installations; and

(C) designate Coast Guard installations that have qualified recycling programs for the purposes of subsection (d)(2).

(2) Recyclable materials shall be sold in accordance with sections 341–355 of title 40, except that the Commandant may conduct sales of materials for which the proceeds of sale will not exceed $5,000 under regulations prescribed by the Commandant.

(d) Proceeds from the sale of recyclable materials at a Coast Guard installation shall be credited to funds available for operations and maintenance at that installation in amounts sufficient to cover operations, maintenance, recycling equipment, and overhead costs for processing recyclable materials at the installation.

(2) If, after funds are credited, a balance remains available to a Coast Guard installation and the installation has a qualified recycling program, not more than 50 percent of that balance may be used at the installation for projects for pollution abatement, energy conservation, programs at Coast Guard installations; and

(e) If the balance available to the Coast Guard installation under this section at the end of a fiscal year is in excess of $200,000, the amount of that excess shall be deposited in the general fund of the Treasury as offsetting receipts of the Department in which the Coast Guard is operating and ascribed to Coast Guard activities.


1So in original. The comma probably should not appear.
§ 642. Deposit of damage payments

Whenever an aid to navigation or other property belonging to the Coast Guard is damaged or destroyed by a private person, and such private person or his agent shall pay to the satisfaction of the proper official of the Coast Guard for the cost of repair or replacement of such property, the Commandant shall accept and deposit such payments through proper officers of the Fiscal Service, Treasury Department, in special deposit accounts in the Treasury, for payment therefrom to the person or persons repairing or replacing the damaged property and refundment of amounts collected in excess of the cost of the repairs or replacements concerned. In the event that repair or replacement of the damaged property is effected by the Coast Guard, the appropriations bearing the cost thereof and current at the time collection is made shall be reimbursed from the special deposit account.

(Aug. 4, 1949, ch. 393, 63 Stat. 547.)
§ 645

(3) “health care provider” means any military or civilian health care professional who, under regulations prescribed by the Secretary, is granted clinical practice privileges to provide health care services in a military medical or dental treatment facility or who is licensed or certified to perform health care services by a governmental board or agency or professional health care society or organization.

(b) Medical quality assurance records created by or for the Coast Guard as part of a medical quality assurance program are confidential and privileged. The records may not be disclosed to any person or entity except as provided in subsection (d).

(c)(1) Medical quality assurance records are not subject to discovery and may not be admitted into evidence in any judicial or administrative proceeding, except as provided in subsection (d).

(2) Except as provided in this section, an individual who reviews or creates medical quality assurance records for the Coast Guard or who participates in any proceeding that reviews or creates the records may not testify in any judicial or administrative proceeding with respect to the records or with respect to any finding, recommendation, evaluation, opinion, or action taken by that person in connection with the records.

(d)(1) Subject to paragraph (2), a medical quality assurance record may be disclosed, and an individual referred to in subsection (c) may testify in connection with a record only as follows:

(A) To a Federal executive agency or private organization, if necessary to license, accredit, or monitor Coast Guard health care facilities.

(B) To an administrative or judicial proceeding commenced by a present or former Coast Guard or Coast Guard assigned Public Health Service health care provider concerning the termination, suspension, or limitation of clinical privileges of the health care provider.

(C) To a governmental board or agency or to a professional health care society or organization, if necessary to perform licensing, or privileging, or to monitor professional standards for a health care provider who is or was a member or an employee of the Coast Guard or the Public Health Service assigned to the Coast Guard.

(D) To a hospital, medical center, or other institution that provides health care services, if necessary to assess the professional qualifications of any health care provider who is or was a member or employee of the Coast Guard or the Public Health Service assigned to the Coast Guard and who has applied for or been granted authority or employment to provide health care services in or on behalf of the institution.

(E) To an officer, member, employee, or contractor of the Coast Guard or the Public Health Service assigned to the Coast Guard if for official purposes.

(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of the agency or instrumentality makes a written request that the record or testimony be provided for a purpose authorized by law.

(G) In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in subparagraph (F), but only with respect to the subject of the proceeding.

(2) Except in a quality assurance action, the identity of any individual receiving health care services from the Coast Guard or the identity of any other individual associated with the agency for the purposes of a quality assurance program that is disclosed in a medical quality assurance record shall be deleted from that record or document before any disclosure of the record is made outside the Coast Guard. This requirement does not apply to the release of information under section 552a of title 5.

(e) Except as provided in this section, a person having possession of or access to a record or testimony described by this section may not disclose the contents of the record or testimony.

(f) Medical quality assurance records may not be made available to any person under section 552 of title 5.

(g) An individual who participates in or provides information to an individual that reviews or creates medical quality assurance records is not civilly liable for participating or providing the information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.

(h) Nothing in this section shall be construed as—

(1) authority to withhold from any person aggregate statistical information regarding the results of Coast Guard medical quality assurance programs;

(2) authority to withhold any medical quality assurance record from a committee of either House of Congress, any joint committee of Congress, or the Government Accountability Office if the record pertains to any matter within their respective jurisdictions;

(3) limiting access to the information in a record created and maintained outside a medical quality assurance program, including a patient’s medical records, on the grounds that the information was presented during meetings of a review body that are part of a medical quality assurance program.


Prior Provisions

§ 646. Admiralty claims against the United States

(a) The Secretary may consider, ascertain, adjust, determine, compromise, or settle, and pay in an amount not more than $100,000, an admiralty claim against the United States for—

(1) damage caused by a vessel in the Coast Guard service or by other property under the jurisdiction of the Department in which the Coast Guard is operating;

(2) compensation for towage and salvage services, including contract salvage, rendered to a vessel in the Coast Guard service or to other property under the jurisdiction of the Department in which the Coast Guard is operating; or

(3) damage caused by a maritime tort committed by an agent or employee of the Department in which the Coast Guard is operating or by property under the jurisdiction of that Department.

(b) Upon acceptance of payment by the claimant, the settlement or compromise of a claim under this section is final and conclusive notwithstanding any other law.

(c) If a claim under this section is settled or compromised for more than $100,000, the Secretary shall certify it to Congress.


HISTORICAL AND REVISION NOTES

Based on title 14, U.S.C., 1946 ed., § 71 (June 15, 1936, ch. 550, 49 Stat. 1514; July 1, 1944, ch. 373, title VII, § 711, 58 Stat. 714; Aug. 15, 1946, ch. 958, 60 Stat. 905). This section closely parallels title 46, U.S.C., 1946 ed., §§797, 798, which authorizes the Secretary of the Navy to negotiate amicable settlement of claims against the United States arising out of the operation of Naval vessels. It grants similar authority to the Secretary of the Treasury in relation to vessels in the Coast Guard service, and the limiting amount is reduced from $1,000,000 to $25,000. It is believed that this section will work to the benefit of the Government by reducing civil litigation and the number of claims which must presently be certified to Congress for appropriations in order to make settlement. It will greatly expedite the settlement of just claims and should result in a considerable overall savings to the Government. 81st Congress, House Report No. 587.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–417 incorporated in part first sentence of former subsec. (a) in text preceding par. (1), substituted “Secretary” for “Secretary of the Treasury”, inserted provisions authorizing payments up to $100,000, struck out second, third, and fourth sentences providing that provisions of this section were supplementary to other provisions, that claims in excess of $2,000 accrued prior to Sept. 1, 1939, would not be considered, and that payments be made out of Coast Guard appropriations, and added pars. (1) to (3).


Subsec. (c). Pub. L. 92–417 incorporated provisions of last sentence of former subsec. (a) and substituted “$100,000” for “$25,000”.

1960—Subsec. (b). Pub. L. 86–533 repealed subsec. (b) which required the Secretary of the Treasury to report to the Congress the payment of claims determined, compromised, settled, or paid.

§ 647. Claims for damage to property of the United States

The Secretary may consider, ascertain, adjust, determine, compromise, or settle claims for damage cognizable in admiralty in a district court of the United States and all claims for damage caused by a vessel or floating object, to property of the United States under the jurisdiction of the Coast Guard or property for which the Coast Guard may have assumed, by contract or otherwise, any obligation to respond for damage thereto. The Secretary is further authorized to receive in payment of any such claim the amount due the United States pursuant to determination, compromise, or settlement as hereinafter authorized and, upon acceptance of such payment but not until then, such determination, settlement, or compromise of such claim shall be final and conclusive for all purposes, any law to the contrary notwithstanding. All such payments shall be deposited in the Treasury of the United States as miscellaneous receipts. The Secretary is further authorized to execute on behalf of the United States to such amount as may be necessary, such promissory notes payable to the United States as miscellaneous receipts. The Secretary is further authorized to receive in payment of any such claim the amount due the United States pursuant to determination, compromise, or settlement as hereinafter authorized and, upon acceptance of such payment but not until then, such determination, settlement, or compromise of such claim shall be final and conclusive for all purposes, any law to the contrary notwithstanding. All such payments shall be deposited in the Treasury of the United States as miscellaneous receipts. The Secretary is further authorized to execute on behalf of the United States to such amount as may be necessary, such promissory notes payable to the United States as miscellaneous receipts. 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HISTORICAL AND REVISION NOTES

This section closely parallels title 34, U.S.C., 1946 ed., §§600a–600d, indicates that such amicable settlement reacts to the benefit of the Government in many cases. The provisions of this section would complement those of section 646 of this title and the two sections together would permit the Coast Guard to negotiate the settlement of claims arising out of Coast Guard floating operations, both for and against the United States. 81st Congress, House Report No. 587.

AMENDMENTS

1984—Pub. L. 98–557 substituted “$100,000” for “$25,000”.

1976—Pub. L. 94–546 struck out subsection designation “(a)” and substituted “Secretary” for “Secretary of the Treasury” wherever appearing, “deposited in the Treasury of the United States” for “covered into the Treasury of the United States”, and “authorized by this section” for “authorized by this title”.
§ 648. Accounting for industrial work

The Secretary may prescribe regulations governing accounting for industrial work, including charges for overhead for civilian labor and for maintenance of industrial plant and equipment, performed at the Coast Guard Yard or such similar Coast Guard industrial establishments as he may designate. Any orders placed for such industrial work shall be covered by a transfer or advance of funds to cover the estimated cost thereof, and shall be credited to such accounts as may be necessary and established by the Secretary to carry out the provisions of this section. Accounts so established shall be available for materials, supplies, or equipment, and civilian labor, including overhead and maintenance, required in performing the work ordered. Upon completion of an order an adjustment will be made to make the amount transferred or advanced equal to the actual cost as computed in accordance with the accounting regulations prescribed by the Secretary.

(Aug. 4, 1949, ch. 393, 63 Stat. 549.)

HISTORICAL AND REVISION NOTES

This section is intended to eliminate a very cumbersome and inefficient method of accounting for industrial jobs at the Coast Guard Yard and other shore establishments where industrial work may be undertaken. Under existing law several accounts must be kept for each job in progress. Under this statute the working fund would be available for all types of expenditures in connection with a job and the break¬down into separate accounts could be done after the job is complete. The other armed forces have provisions of law which permit a working fund similar to the one provided by this section. 81st Congress, House Report No. 557.

§ 649. Supplies and equipment from stock

Supplies and equipment for special work of the Coast Guard may be furnished from general stock and the applicable appropriation reimbursed therefrom in accordance with the respective appropriations for such special work.

(Aug. 4, 1949, ch. 393, 63 Stat. 550.)

HISTORICAL AND REVISION NOTES


§ 650. Coast Guard Supply Fund

(a) A Coast Guard Supply Fund is authorized. The Secretary may prescribe regulations for designating the classification of materials to be stocked. In these regulations, whenever the fund is extended to include items not previously stocked, or spare parts obtained as part of a procurement under a different account of major items such as vessels or aircraft, whether or not such parts were previously stocked, the Secretary may authorize an increase in the existing capital of the fund by the value of such usable materials transferred thereto from Coast Guard inventories carried in other accounts. Except for the materials so transferred, the fund shall be charged with the cost of materials purchased or otherwise acquired. The fund shall be credited with the value of materials consumed, issued for use, sold, or otherwise disposed of, such values to be determined on a basis that will approximately cover the cost thereof.

(b) Obligations may, without regard to fiscal year limitations, be incurred against anticipated reimbursement to the Coast Guard Supply Fund in such amount and for such period, as the Secretary, with approval of the Director of the Office of Management and Budget, may determine to be necessary to maintain stock levels consistently with planned operations for the next year.


HISTORICAL AND REVISION NOTES

The Coast Guard supply fund was established by the Naval Appropriation Act for fiscal year 1949 approved February 7, 1949, 65 Stat. 73. Experience has clearly shown that it is advantageous to the Government to have permanent authorization for such a fund. 81st Congress, House Report No. 557.

AMENDMENTS

1956—Subsec. (a). Pub. L. 84–257 substituted “these regulations” for “such regulations” and authorized an increase in the capital of the fund when the fund is extended to include spare parts obtained as part of a procurement under a different account of major items such as vessels or aircraft, whether or not such parts were previously stocked.


HISTORICAL AND REVISION NOTES

§ 652. Removing restrictions

Any law removing for the duration of a war or national emergency proclaimed by the President any restriction contained in any then-existing law as applied to the Navy, including, but not limited to, restrictions relating to the manner in which purchases may be made and contracts awarded, fiscal operations, and personnel, shall, in the same manner and to the same extent, remove such restrictions as applied to the Coast Guard.

(Aug. 4, 1949, ch. 393, 63 Stat. 550.)

HISTORICAL AND REVISION NOTES

This section is new and provides that any law removing for the duration of a war or national emergency any restriction contained in any then-existing law as applied to the Navy shall operate in the same manner to remove such restrictions as applied to the Coast Guard. Included are restrictions relating to the manner in which purchases may be made and contracts awarded, fiscal operations, and personnel. This provision is designed to enable the Coast Guard to operate as efficiently as the Navy Department in time of war or during a national emergency and would permit the Coast Guard more effectively to maintain itself in a state of military readiness during periods of emergency. Since the Coast Guard operates as part of the Navy in time of war, it is essential that its operations be as flexible and as efficient as those of the Department of which it is to be a part. This section would prevent inadvertent failures specifically to mention the Coast Guard in legislation of the type described in this section from hindering service operations. 81st Congress, House Report No. 557.

§ 653. Employment of draftsmen and engineers

The Coast Guard may employ temporarily, at the seat of government, draftsmen and engineers for the preparation of plans and specifications for vessels, lighthouses, aids to navigation, and other projects for the Coast Guard that may be authorized or appropriated for by Congress, to be paid from the appropriations applicable to such projects.

(Aug. 4, 1949, ch. 393, 63 Stat. 550.)

HISTORICAL AND REVISION NOTES


§ 654. Public and commercial vessels and other watercraft; sale of fuel, supplies, and services

The Secretary under such regulations as he may prescribe, may sell to public and commercial vessels and other watercraft, such fuel, supplies and furnish such services as may be required to meet the necessities of the vessel or watercraft if such vessel or watercraft is unable—

(1) to procure the fuel, supplies, or services from other sources at its present location; and

(2) to proceed to the nearest port where they may be obtained without endangering the safety of the ship, the health and comfort of its personnel, or the safe condition of the property carried aboard.

Sales under this section shall be at such prices as the Secretary considers reasonable. Payment will be made on a cash basis or on such other basis as will reasonably assure prompt payment. Amounts received from such a sale shall, unless otherwise directed by another provision of law, be credited to the current appropriation concerned and are available for the same purposes as that appropriation.


AMENDMENTS

1966—Pub. L. 89–444 inserted “Public and commercial vessels and other watercraft; sale of fuel, supplies, and services” in section catchline.

§ 655. Arms and ammunition; immunity from taxation

No tax on the sale or transfer of firearms, pistols, revolvers, shells, or cartridges may be imposed on such articles when bought with funds appropriated for the Coast Guard.


AMENDMENTS

1976—Pub. L. 94–546 struck out “United States” before “Coast Guard”.

§ 656. Use of moneys appropriated for acquisition, construction, and improvement; for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters

(a) Funds appropriated to or for the use of the Coast Guard for acquisition, construction, and improvement of facilities, for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters shall remain available until expended.

(b) The Secretary may use any funds appropriated to or for the use of the Coast Guard for other construction purposes to restore, repair, or replace facilities that have been damaged or destroyed, including acquisition of sites.

(c) The Secretary may use any funds appropriated to or for the use of the Coast Guard for other construction purposes to acquire, construct, convert, extend, and install at Coast Guard installations and facilities, needed permanent or temporary public works, including the preparation of sites and the furnishing of appurtenances, utilities, and equipment, but excluding the construction of family quarters, costing not more than $200,000 for any one project.

§ 657. Dependent school children

(a) Except as otherwise authorized by the Act of September 30, 1950, the Secretary may provide, out of funds appropriated to or for the use of the Coast Guard, for the primary and secondary schooling of dependents of Coast Guard personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of those dependents.

(b) Whenever the Secretary, under such regulations as he may prescribe, determines that schools located in the same area in which a Coast Guard facility is located are not accessible by public means of transportation on a regular basis, he may provide, out of funds appropriated to or for the use of the Coast Guard, for the transportation of dependents of Coast Guard personnel between the schools serving the area and the Coast Guard facility.

REFERENCES IN TEXT

AMENDMENTS
1974—Pub. L. 93–283, § 1(19)(A), substituted “Use of moneys appropriated for acquisition, construction, and improvement; for research, development, test, and evaluation; and for the alteration of bridges over the navigable waters” for “Use of appropriations to store, replace, establish, or develop facilities” in section catchline.
Pub. L. 93–283, § 1(19)(B), (C), added subsec. (a) and redesignated former subsecs. (a) and (b) as (b) and (c), respectively.

CURRENT COAST GUARD PLANS FOR CAPITAL INVESTMENT, CUTTER PLAN, AVIATION PLAN, AND SHORE FACILITIES

Pub. L. 96–376, § 12, Oct. 3, 1980, 94 Stat. 1511, which had provided that the President submit to the Congress, with the fiscal year 1982 budget request for the Coast Guard and each subsequent budget request, the current copy of the Coast Guard’s Capital Investment Plan, Cutter Plan, Aviation Plan, and Shore Facilities Plan, was repealed and reenacted as section 663 of this title by Pub. L. 97–296, §§2(20)(A), 6(b), Oct. 12, 1982, 96 Stat. 1303, 1315.

Funds Appropriated to or for Use of Coast Guard After Fiscal Year 1977: Limitation

Pub. L. 94–406, § 5, Sept. 10, 1976, 90 Stat. 1236, which had provided that after fiscal year 1977, funds may not be appropriated to or for the use of the Coast Guard for the operation and maintenance of the Coast Guard; for acquisition, construction, rebuilding, or improvement of aids to navigation, shore or offshore establishments, vessels, or aircraft, including equipment related thereto; for alteration of obstructive bridges; or for research, development, tests, or evaluation related to any of the above, unless the appropriation of such funds had been authorized by legislation enacted after December 31, 1976, was repealed and reenacted as section 663 of this title by Pub. L. 97–296, §§2(20)(A), 6(b), Oct. 12, 1982, 96 Stat. 1303, 1315.

§ 658. Confidential investigative expenses

Not more than $45,000 each fiscal year appropriated for necessary expenses for the operation of the Coast Guard shall be available for investigative expenses of a confidential character, to be expended on the approval or authority of the Commandant and payment to be made on his certificate of necessity for confidential purposes, and his determination shall be final and conclusive upon the accounting officers of the Government.


AMENDMENTS
2004—Pub. L. 108–293 substituted “$45,000 each fiscal year” for “$15,000 per annum”.

§ 659. Assistance to film producers

(a) Notwithstanding any other provision of law, when the Secretary determines that it is appropriate, and that it will not interfere with Coast Guard missions, the Secretary may conduct operations with Coast Guard vessels, aircraft, facilities, or personnel, in such a way as to give assistance to film producers. As used in this section, “film producers” includes commercial or noncommercial producers of material for cinema, television, or videotape.

(b) The Secretary shall keep account of costs incurred as a result of providing assistance to film producers, not including costs which would otherwise be incurred in Coast Guard operations or training, or shall estimate such costs in advance, and such costs shall be paid to the Secretary by the film producers who request such assistance, on terms determined by the Secretary. The Secretary may waive costs not exceeding $200 for one production, and may waive other costs related to noncommercial productions which the Secretary determines to be in the public interest. The Secretary shall reimburse the amounts collected under this section to the Coast Guard appropriation account under which the costs were incurred.

(Added Pub. L. 100–448, § 29(a), Sept. 28, 1988, 102 Stat. 1849.)

PRIOR PROVISIONS

§ 660. Transportation to and from certain places

(a) Whenever the Secretary determines that it is necessary for the effective conduct of the affairs of the Coast Guard, he may, at reasonable
rates of fare fixed under regulations to be prescribed by him, provide assured and adequate transportation by motor vehicle or water carrier to and from their places of employment for persons attached to, or employed by, the Coast Guard and during a war or during a national emergency declared by Congress or the President, for persons attached to, or employed in, a private plant that is manufacturing material for the Coast Guard.

(b) Transportation may not be provided under subsection (a) unless the Secretary or an officer designated by the Secretary, determines that—

(1) other transportation facilities are inadequate and cannot be made adequate;

(2) a reasonable effort has been made to induce operators of private facilities to provide the necessary transportation; and

(3) the service to be furnished will make proper use of transportation facilities and will supply the most efficient transportation to the persons concerned.

(c) To provide transportation under subsection (a), the Secretary may—

(1) buy, lease, or charter motor vehicles or water carriers having a seating capacity of 12 or more passengers;

(2) maintain and operate that equipment by enlisted members or employees of the Coast Guard, or by private persons under contract; and

(3) lease or charter the equipment to private or public carriers for operation under terms that are considered necessary by the Secretary or by an officer designated by the Secretary, and that may provide for the pooling of government-owned and privately owned equipment and facilities and for the reciprocal use of that equipment.

(d) Fares received under subsection (a), and proceeds of the leasing or chartering of equipment under subsection (c)(3), shall be covered into the Treasury as miscellaneous receipts.


HISTORICAL AND REVISION NOTES

The words “after fiscal year 1977” are omitted as executed. The word “Amounts” is substituted for “funds” for clarity and consistency.

AMENDMENTS

1986—Subsec. (e). Pub. L. 99–550 struck out subsec. (e) which provided that passenger motor vehicles of the United States could be used to provide transportation between the residence and place of work of the Commandant. See section 1344 of Title 31, Money and Finance.


EFFECTIVE DATE OF 1985 AMENDMENT

Section 1623 of Pub. L. 99–145 provided that the amendment made by that section is effective Oct. 1, 1985.

§ 661. Authorization of personnel end strengths

(a) For each fiscal year, Congress shall authorize the strength for active duty personnel of the Coast Guard as of the end of that fiscal year. Amounts may be appropriated for a fiscal year to or for the use of active duty personnel of the Coast Guard only if the end strength for active duty personnel for that fiscal year has been authorized by law. If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard, for a period not to exceed 6 months after the end of the war or termination of the national emergency.

(b)(1) Congress shall authorize the average military training student loads for the Coast Guard for each fiscal year. That authorization is required for student loads for the following individual training categories:

(A) Recruit and specialized training.

(B) Flight training.

(C) Professional training in military and civilian institutions.

(D) Officer acquisition training.

(2) Amounts may be appropriated for a fiscal year for use in training military personnel of the Coast Guard in the categories referred to in paragraph (1) only if the average student loads for the Coast Guard for that fiscal year have been authorized by law.


HISTORICAL AND REVISION NOTES

Revised Section Source (U.S. Code) Source (Statutes at Large)


Amendments

2002—Subsec. (a). Pub. L. 107–295 inserted at end “If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard, for a period not to exceed 6 months after the end of the war or termination of the national emergency.”

§ 662. Requirement for prior authorization of appropriations

Amounts may be appropriated to or for the use of the Coast Guard for the following matters only if the amounts have been authorized by law after December 31, 1976:

(1) For the operation and maintenance of the Coast Guard.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore or offshore establishments, vessels, or aircraft, including equipment related to the aids, establishments, vessels, or aircraft.

(3) For altering obstructive bridges.

(4) For research, development, test, or evaluation related to intelligence systems and capabilities or a matter referred to in clauses (1)–(3).

(5) For environmental compliance and restoration at Coast Guard facilities.

§ 663. Submission of plans to Congress

The President shall submit to Congress with each budget request for the Coast Guard the current copy of the Coast Guard’s Capital Investment Plan, Cutter Plan, Aviation Plan, Shore Facilities Plan, and Information Resources Management Plan. Not later than 30 days after the date on which the President submits to the Congress a budget under section 1105 of title 31 which includes a proposed 2-year budget for the Coast Guard, the Secretary shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the House of Representatives, detailed Coast Guard budget estimates for the fiscal years covered by such proposed 2-year budget.


HISTORICAL AND REVISION NOTES

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The words “with the fiscal year 1982 budget request” and “subsequent” are omitted as executed.

AMENDMENTS


1988—Pub. L. 100–448 inserted at end “Not later than 30 days after the date on which the President submits to the Congress a budget under section 1105 of title 31 which includes a proposed 2-year budget for the Coast Guard, the Secretary shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives, detailed Coast Guard budget estimates for the fiscal years covered by such proposed 2-year budget.”

CAPITAL INVESTMENT PLAN

Pub. L. 111–281, title IX, §918, Oct. 15, 2010, 124 Stat. 3022, provided that: “The Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure [of the House of Representatives] and the Committee on Commerce, Science, and Transportation of the Senate the Coast Guard’s 5-year capital investment plan concurrent with the President’s budget submission for each fiscal year.”

DEEPWATER REPORTS

Pub. L. 110–241, title IV, § 408, July 11, 2006, 120 Stat. 537, provided that:

“(a) ANNUAL DEEPWATER IMPLEMENTATION REPORT.—Not later than 30 days after the date of enactment of this Act [July 11, 2006] and in conjunction with the transmittal by the President of the budget of the United States for each fiscal year thereafter, the Secretary of the department in which the Coast Guard operates shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the implementation of the Integrated Deepwater Systems Program, as revised in 2005 (in this section referred to as the ‘Deepwater program’), that includes—

‘‘(1) a justification for how the projected number and capabilities of each Deepwater program asset meets the revised mission needs statement delivered as part of the Deepwater program and the performance goals of the Coast Guard;

‘‘(2) a projection of the remaining operational life-span of each legacy asset;

‘‘(3) an identification of any changes to the Deepwater program, including—

‘‘(A) any changes to the timeline for the acquisition of each new asset and the phase out of legacy assets for the life of the Deepwater program; and

‘‘(B) any changes to the costs for that fiscal year or future fiscal years or the total costs of the Deepwater program, including the costs of new and legacy assets;

‘‘(4) a justification for how any change to the Deepwater program fulfills the mission needs statement for the Deepwater program and performance goals of the Coast Guard;

‘‘(5) an identification of how funds in that fiscal year’s budget request will be allocated, including information on the purchase of specific assets;

‘‘(6) a detailed explanation of how the costs of the legacy assets are being accounted for within the Deepwater program;

‘‘(7) a description of how the Coast Guard is planning for the integration of Deepwater program assets into the Coast Guard, including needs related to shore-based infrastructure and human resources; and

‘‘(8) a description of the competitive process conducted in all contracts and subcontracts exceeding $2,500,000 awarded under the Deepwater program.

‘‘(b) DEEPWATER ACCELERATION REPORT.—Not later than 30 days after the date of enactment of this Act [July 11, 2006], the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the acceleration of the current Deepwater program acquisition timeline that reflects completion of the Deepwater program in each of 10 years and 15 years and includes—

‘‘(1) a detailed explanation of the number and type of each asset that would be procured for each fiscal year under each accelerated acquisition timeline;

‘‘(2) the required funding for such completion under each accelerated acquisition timeline;
“(3) anticipated costs associated with legacy asset sustainment for the Deepwater program under each accelerated acquisition timeline;

“(4) anticipated mission deficiencies, if any, associated with the continued degradation of legacy assets in combination with the procurement of new assets under each accelerated acquisition timeline; and

“(5) an evaluation of the overall feasibility of achieving each accelerated acquisition timeline, including—

“(A) contractor capacity;

“(B) national shipbuilding capacity;

“(C) asset integration into Coast Guard facilities;

“(D) required personnel; and

“(E) training infrastructure capacity on technology associated with new assets.

“(c) Oversight Report.—Not later than 90 days after the date of enactment of this Act [July 11, 2006], the Commandant of the Coast Guard, in consultation with the Government Accountability Office, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of the Coast Guard’s implementation of the Government Accountability Office’s recommendations in its report, GAO-04-380, entitled ‘Coast Guard Deepwater Program Needs Increased Attention to Management and Contractor Oversight’, including the dates by which the Coast Guard plans to complete implementation of such recommendations if any of such recommendations remain open as of the date the report is transmitted to the Committees.

“(d) Independent Analysis of Revised Deepwater Plan.—The Secretary may periodically, either through an internal review process or a contract with an outside entity, conduct an analysis of all or part of the Deepwater program and assess whether—

“(1) the choice of assets and capabilities selected as part of that program meets the Coast Guard’s goals for performance and minimizing total ownership costs; or

“(2) additional or different assets should be considered as part of that program.

**REVISED DEEPWATER IMPLEMENTATION PLAN**
Pub. L. 111–83, title II, Oct. 28, 2009, 123 Stat. 2153, provided in part: “That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, in conjunction with the fiscal year 2011 budget request, a comprehensive review of the Revised Deepwater Implementation Plan, and every 5 years thereafter, that includes a complete projection of the acquisition costs and schedule for the duration of the plan.”

Similar provisions were contained in the following prior appropriation acts:

**FUTURE-YEARS CAPITAL INVESTMENT PLAN**
Pub. L. 112–74, div. D, title II, Dec. 23, 2011, 125 Stat. 954, provided in part: “That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the President’s budget is submitted each year under section 1105(a) of title 31, United States Code, a future-years capital investment plan for the Coast Guard that identifies for each requested capital asset—

“(1) the proposed appropriations included in that budget;

“(2) the total estimated cost of completion, including a clearly delineating the costs of associated major acquisition systems infrastructure and transition to operations;

“(3) projected funding levels for each fiscal year for the next 5 fiscal years or until acquisition program baseline or project completion, whichever is earlier;

“(4) an estimated completion date at the projected funding levels; and

“(5) a current acquisition program baseline for each capital asset, as applicable, that—

“(A) includes the total acquisition cost of each asset, subdivided by fiscal year and including a detailed description of the purpose of the proposed funding levels for each fiscal year, including for each fiscal year funds requested for design, acquisition activities, production, structural modifications, missionization, post-delivery, and transition to operations costs;

“(B) includes a detailed project schedule through completion, subdivided by fiscal year, that details—

“(i) quantities planned for each fiscal year; and

“(ii) major acquisition and project events, including development of operational requirements, contracting actions, design reviews, production, delivery, test and evaluation, and transition to operations, including necessary training, shore infrastructure, and logistics;

“(C) notes and explains any deviations in cost, performance parameters, schedule, or estimated date of completion from the original acquisition program baseline and the most recent baseline approved by the Department of Homeland Security’s Acquisition Review Board, if applicable;

“(D) aligns the acquisition of each asset to mission requirements by defining existing capabilities of comparable legacy assets, identifying known capability gaps between such existing capabilities and stated mission requirements, and explaining how the acquisition of each asset will address such known capability gaps;

“(E) defines life-cycle costs for each asset and the date of the estimate on which such costs are based, including all associated costs of major acquisitions systems infrastructure and transition to operations, delineated by purpose and fiscal year for the projected service life of the asset;

“(F) includes the earned value management system summary schedule performance index and cost performance index for each asset, if applicable; and

“(G) includes a phase-out and decommissioning schedule delineated by fiscal year for each existing legacy asset that each asset is intended to replace or recapitalize.

Provided further, That the Secretary of Homeland Security shall ensure that amounts specified in the future-years capital investment plan are consistent, to the maximum extent practicable, with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President’s budget as submitted under section 1105(a) of title 31, United States Code, for that fiscal year. Provided further, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified.”

Similar provisions were contained in the following prior appropriation acts:

**UNFUNDED PRIORITIES**
Pub. L. 108–334, title V, § 514, Oct. 18, 2004, 118 Stat. 1317, provided that: “The Commandant of the Coast Guard shall provide to the Congress each year, at the time that the President’s budget is submitted under section 1105(a) of title 31, United States Code, a list of approved but unfunded Coast Guard priorities and the funds needed for each such priority in the same manner
and with the same contents as the unfunded priorities lists submitted by the chiefs of other Armed Services.”

**STATUS REPORTS ON POLAR ICEBREAKING VESSELS**

Pub. L. 99–640, §15, Nov. 10, 1986, 100 Stat. 3552, provided that: “The Secretary of the department in which the Coast Guard is operating shall provide detailed reports to Congress concerning the status of design and construction plans for the procurement of at least two new polar icebreaking vessels. Such reports shall be included in the Cutter Plan required annually by section 663 of title 14, United States Code, and shall be submitted each year until at least two new polar icebreaking vessels have been delivered to the Coast Guard.”

§ 664. **User fees**

(a) A fee or charge for a service or thing of value provided by the Coast Guard shall be prescribed as provided in section 9701 of title 31.

(b) Amounts collected by the Secretary for a service or thing of value provided by the Coast Guard shall be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

(c) In addition to the collection of fees and charges established under this section, the Secretary may recover from the person liable for the fee or charge the costs of collecting delinquent payments of the fee or charge, and enforcement costs associated with delinquent payments of the fees and charges.

(d) (1) The Secretary may employ any Federal, State, or local agency or instrumentality, or any private enterprise or business, to collect a fee or charge established under this section.

(2) A private enterprise or business employed by the Secretary to collect fees or charges—

(A) shall be subject to reasonable terms and conditions agreed to by the Secretary and the enterprise or business;

(B) shall provide appropriate accounting to the Secretary; and

(C) may not institute litigation as part of that collection.

(e) The Secretary shall account for the agency’s costs of collecting a fee or charge as a reimbursable expense, subject to the availability of appropriations, and the costs shall be credited to the account from which expended.

(f) Before January 1 of each year, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that includes—

1. a verification of each activity for which a fee or charge is collected under any law stating—

(A) the amount collected in the prior fiscal year; and

(B) that the amount spent on that activity in that fiscal year is not less than the amount collected; and

2. the amount expected to be collected under any law in the current fiscal year for each activity for which a fee or charge is expected to be collected.

(g) In this section the term “costs of collecting a fee or charge” includes the reasonable administrative, accounting, personnel, contract, equipment, supply, training, and travel expenses of calculating, assessing, collecting, enforcing, reviewing, adjusting, and reporting on a fee or charge.


**AMENDMENTS**

2004—Subsecs. (c) to (g). Pub. L. 108–293 added subsecs. (c) to (e) and (g) and redesignated former subsec. (c) as (f).


§ 665. **Restriction on construction of vessels in foreign shipyards**

(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed in a foreign shipyard.

(b) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.

(Added Pub. L. 100–448, §26(a), Sept. 28, 1988, 102 Stat. 147.)

§ 666. **Local hire**

(a) Notwithstanding any other law, each contract awarded by the Coast Guard for construction or services to be performed in whole or in part in a State that has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The Secretary of Homeland Security may waive the requirements of this subsection in the interest of national security or economic efficiency.

(b) **LOCAL RESIDENT DEFINED.**—As used in this section, “local resident” means a resident of, or an individual who commutes daily to, a State described in subsection (a).


**AMENDMENTS**


**EFFECTIVE DATE OF 2002 AMENDMENT**

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of
§ 667. Vessel construction bonding requirements

The Secretary or the Commandant may require bid, payment, performance, payment and performance, or completion bonds or other financial instruments from contractors for construction, alteration, repair, or maintenance of Coast Guard vessels if—

(1) the bond is required by law; or

(2) the Secretary or Commandant determines after investigation that the amount of the bond in excess of 20 percent of the value of the base contract quantity excluding options, would not prevent a responsible bidder or offeror from competing for award of the contract.


§ 668. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care

(a) The Secretary may contract for the delivery of health care to which covered beneficiaries are entitled under chapter 55 of title 10. The Secretary may enter into a contract under this section with any of the following:

(1) Health maintenance organizations.

(2) Preferred provider organizations.

(3) Individual providers, individual medical facilities, or insurers.

(4) Consortiums of these providers, facilities, or insurers.

(b) A contract entered into under this section may provide for the delivery of—

(1) selected health care services;

(2) total health care services for selected covered beneficiaries; or

(3) total health care services for all covered beneficiaries who reside in a geographic area designated by the Secretary.

(c) The Secretary may prescribe a premium, deductible, copayment, or other change for health care provided under this section.


§ 669. Telephone installation and charges

Under regulations prescribed by the Secretary, amounts appropriated to the Department of Homeland Security are available to install, repair, and maintain telephone wiring in residences owned or leased by the United States Government and, if necessary for national defense purposes in other private residences.


AMENDMENTS


EFFECTIVE DATE OF 2002 AMENDMENT

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

§ 670. Procurement authority for family housing

(a) The Secretary is authorized—

(1) to acquire, subject to the availability of appropriations sufficient to cover its full obligations, real property or interests therein by purchase, lease for a term not to exceed 5 years, or otherwise, for use as Coast Guard family housing units, including the acquisition of condominium units, which may include the obligation to pay maintenance, repair, and other condominium-related fees; and

(2) to dispose of by sale, lease, or otherwise, any real property or interest therein used for Coast Guard family housing units for adequate consideration.

(b)(1) For the purposes of this section, a multiyear contract is a contract to lease Coast Guard family housing units for at least one, but not more than 5, fiscal years.

(2) The Secretary may enter into multiyear contracts under subsection (a) of this section whenever the Coast Guard finds that—

(A) the use of a contract will promote the efficiency of the Coast Guard family housing program and will result in reduced total costs under the contract; and

(B) there are realistic estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract.

(3) A multiyear contract authorized under subsection (a) of this section shall contain cancellation and termination provisions to the extent necessary to protect the best interests of the United States, and may include consideration of both recurring and nonrecurring costs. The contract may provide for a cancellation payment to be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.


§ 671. Air Station Cape Cod Improvements

The Secretary may expend funds for the repair, improvement, restoration, or replacement of those federally or nonfederally owned support buildings, including appurtenances, which are on leased or permitted real property constituting Coast Guard Air Station Cape Cod, located on Massachusetts Military Reservation, Cape Cod, Massachusetts.


§ 672. Long-term lease of special purpose facilities

(a) The Secretary is authorized, subject to the availability of appropriations, to enter into lease agreements to acquire real property or interests therein for a term not to exceed 20 years, inclusive of any automatic renewal clauses, for special purpose facilities, including, aids to navigation (hereafter in this section referred to as “ATON”) sites, vessel traffic service (here-
after in this section referred to as “VTS”) sensor sites, or National Distress System (hereafter in this section referred to as “NDS”) high level antenna sites. These lease agreements shall include cancellation and termination provisions to the extent necessary to protect the best interests of the United States. Cancellation payment provisions may include consideration of both recurring and nonrecurring costs associated with the real property interests under the contract. These lease agreements may provide for a cancellation payment to be made. Amounts that were originally obligated for the cost of the contract may be used for cancellation or termination costs.

(b) For purposes of this section, the term “special purpose facilities” means any facilities used to carry out Coast Guard aviation, maritime, or navigation missions other than general purpose office and storage space facilities.

(c) In the case of ATON, VTS, or NDS sites, the Secretary may enter into multiyear lease agreements under subsection (a) of this section whenever the Secretary finds that—

(1) the use of such a lease agreement will promote the efficiency of the ATON, VTS, or NDS programs and will result in reduced total costs under the agreement;

(2) the minimum need for the real property or interest therein to be leased is expected to remain substantially unchanged during the contemplated lease period; and

(3) the estimates of both the cost of the lease and the anticipated cost avoidance through the use of a multiyear lease are realistic.


AMENDMENTS

2004—Pub. L. 108–293, §212(a)(1), added section catchline and struck out former section catchline which read as follows: “Long-term lease authority for navigation and communications systems sites”.

Subsec. (a). Pub. L. 108–293, §212(a)(2), inserted “special purpose facilities, including,” after “automatic renewal clauses, for”.


§ 672a. Long-term lease authority for lighthouse property

(a) The Commandant of the Coast Guard may lease to non-Federal entities, including private individuals, lighthouse property under the administrative control of the Coast Guard for terms not to exceed 30 years. Consideration for the use and occupancy of lighthouse property leased under this section, and for the value of any utilities and services furnished to a lessee of such property by the Commandant, may consist, in whole or in part, of non-pecuniary remuneration including the improvement, alteration, restoration, rehabilitation, repair, and maintenance of the leased premises by the lessee. Section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b) shall not apply to leases issued by the Commandant under this section.

(b) Amounts received from leases made under this section, less expenses incurred, shall be deposited in the Treasury.


REFERENCES IN TEXT


§ 673. Designation, powers, and accountability of deputy disbursing officials

(a)(1) Subject to paragraph (3), a disbursing official of the Coast Guard may designate a deputy disbursing official—

(A) to make payments as the agent of the disbursing official;

(B) to sign checks drawn on disbursing accounts of the Secretary of the Treasury; and

(C) to carry out other duties required under law.

(2) The penalties for misconduct that apply to a disbursing official apply to a deputy disbursing official designated under this subsection.

(3) A disbursing official may make a designation under paragraph (1) only with the approval of the Secretary of Homeland Security (when the Coast Guard is not operating as a service in the Navy).

(b)(1) If a disbursing official of the Coast Guard dies, becomes disabled, or is separated from office, a deputy disbursing official may continue the accounts and payments in the name of the former disbursing official until the last day of the second month after the month in which the death, disability, or separation occurs. The accounts and payments shall be allowed, audited, and settled as provided by law. The Secretary of the Treasury shall honor checks signed in the name of the former disbursing official in the same way as if the former disbursing official had continued in office.

(2) The deputy disbursing official, and not the former disbursing official or the estate of the former disbursing official, is liable for the actions of the deputy disbursing official under this subsection.

(c)(1) Except as provided in paragraph (2), this section does not apply to the Coast Guard when section 2773 of title 10 applies to the Coast Guard by reason of the operation of the Coast Guard as a service in the Navy.

(2) A designation of a deputy disbursing official under subsection (a) that is made while the Coast Guard is not operating as a service in the Navy continues in effect for purposes of section 2773 of title 10 while the Coast Guard operates as a service in the Navy unless and until the designation is terminated by the disbursing official who made the designation or an official authorized to approve such a designation under subsection (a)(3) of such section.

* * * See References in Text note below. * * *
§ 674. Small boat station rescue capability

The Secretary of Homeland Security shall ensure that each Coast Guard small boat station (including a seasonally operated station) maintains, within the area of responsibility for the station, at least 1 vessel that is fully capable of performing offshore rescue operations, taking into consideration prevailing weather, marine conditions, and depositional geologic features such as sand bars.


PRIOR PROVISIONS

A prior section 674 was renumbered section 675 of this title.

AMENDMENTS


Effective Date of 2002 Amendment

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

§ 675. Small boat station closures

(a) Closures.—The Secretary of Homeland Security may not close a Coast Guard multi-mission small boat station or subunit unless the Secretary—

(1) determines that—

(A) remaining search and rescue capabilities maintain the safety of the maritime public in the area of the station or subunit;

(B) regional or local prevailing weather and marine conditions, including water temperature or unusual tide and current conditions, do not require continued operation of the station or subunit; and

(C) Coast Guard search and rescue standards related to search and rescue response times are met; and

(2) provides an opportunity for public comment and for public meetings in the area of the station or subunit with regard to the decision to close the station or subunit.

(b) OPERATIONAL FLEXIBILITY.—The Secretary may implement any management efficiencies within the small boat station system, such as modifying the operational posture of units or reallocating resources as necessary to ensure the safety of the maritime public nationwide. No stations or subunits may be closed under this subsection except in accordance with subsection (a).


AMENDMENTS

2002—Subsec. (a). Pub. L. 107–296, which directed amendment of section 674 of this title by substituting “of Homeland Security” for “of Transportation” in introductory provisions, was executed to this section, to reflect the probable intent of Congress and the renumbering of section 674 of this title as this section by Pub. L. 107–296, see below.

Pub. L. 107–296 renumbered section 674 of this title as this section.

Effective Date of 2002 Amendment

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

§ 676. Search and rescue center standards

(a) The Secretary shall establish, implement, and maintain the minimum standards necessary for the safe operation of all Coast Guard search and rescue center facilities, including with respect to the following:

(1) The lighting, acoustics, and temperature in the facilities.

(2) The number of individuals on a shift in the facility assigned search and rescue responsibilities (including communications), which may be adjusted based on seasonal workload.

(3) The length of time an individual may serve on watch to minimize fatigue, based on the best scientific information available.

(4) The scheduling of individuals having search and rescue responsibilities to minimize fatigue of the individual when on duty in the facility.

(5) The workload of each individual engaged in search and rescue responsibilities in the facility.

(6) Stress management for the individuals assigned search and rescue responsibilities in the facilities.

(7) The design of equipment and facilities to minimize fatigue and enhance search and rescue operations.
§ 677. Turnkey selection procedures

(a) AUTHORITY TO USE.—The Secretary may use one-step turnkey selection procedures for the purpose of entering into contracts for construction projects.

(b) DEFINITIONS.—In this section, the following definitions apply:

1. The term “one-step turnkey selection procedures” means procedures used for the selection of a contractor on the basis of price and other evaluation criteria to perform, in accordance with the provisions of a firm fixed-price contract, both the design and construction of a facility using performance specifications supplied by the Secretary.

2. The term “construction” includes the construction, procurement, development, conversion, or extension of any facility.

3. The term “facility” means a building, structure, or other improvement to real property.

struction of military family housing or military unaccompanied housing, the Secretary may acquire or construct the following:

(1) Military family housing on or near Coast Guard installations within the United States and its territories and possessions.

(2) Military unaccompanied housing on or near such Coast Guard installations.

(b) LIMITATION ON APPROPRIATIONS.—No appropriation shall be made to acquire or construct military family housing or military unaccompanied housing under this chapter if that acquisition or construction has not been approved by resolutions adopted by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.


AMENDMENTS

2010—Subsec. (a). Pub. L. 111–281, § 221(a)(2)(A), in introductory provisions, substituted “acquire or construct the following:” for “exercise any authority or any combination of authorities provided under this chapter in order to facilitate the acquisition or construction by private persons, including a small business concern qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), of the following:”.


§ 685. Conveyance of real property

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law, the Secretary may convey, at fair market value, real property, owned or under the administrative control of the Coast Guard, for the purpose of expending the proceeds from such conveyance to acquire and construct military family housing and military unaccompanied housing.

(b) TERMS AND CONDITIONS.—

1. The conveyance of real property under this section shall be by sale, for cash. The Secretary shall deposit the proceeds from the sale in the Coast Guard Housing Fund established under section 687 of this title, for the purpose of}

of expending such proceeds to acquire and construct military family housing and military unaccompanied housing.

(2) The conveyance of real property under this section shall not diminish the mission capacity of the Coast Guard, but further the mission support capability of the Coast Guard with regard to military family housing or military unaccompanied housing.

(c) RELATIONSHIP TO ENVIRONMENTAL LAW.—

This section does not affect or limit the application of or obligation to comply with any environmental law, including section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).


AMENDMENTS


2010—Pub. L. 111–281 amended section generally. Prior to amendment, section authorized Secretary to convey or lease existing property and facilities under certain conditions.


§ 686. Coast Guard Housing Fund

(a) ESTABLISHMENT.—There is hereby established on the books of the Treasury an account to be known as the Coast Guard Housing Fund (in this section referred to as the “Fund”).

(b) CREDITS TO FUND.—There shall be credited to the Fund the following:

1. Amounts authorized for and appropriated to that Fund.

2. Subject to subsection (e), any amounts that the Secretary transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Homeland Security or Coast Guard for the acquisition or con-
construction of military family housing or military unaccompanied housing.

(3) Proceeds from the conveyance of property under section 685 of this title for the purpose of carrying out activities under this chapter with respect to military family housing and military unaccompanied housing.

(c) Use of Amounts in Fund.—(1) In such amounts as provided in appropriations Acts, and except as provided in subsection (d), the Secretary may use amounts in the Coast Guard Housing Fund to carry out activities under this chapter with respect to military family housing and military unaccompanied housing, including—

(A) the planning, execution, and administration of the conveyance of real property;

(B) all necessary expenses, including expenses for environmental compliance and restoration, to prepare real property for conveyance; and

(C) the conveyance of real property.

(2) Amounts made available under this subsection shall remain available until expended.

(d) Limitation on Obligations.—The Secretary may not incur an obligation under a contract or other agreement entered into under this chapter in excess of the unobligated balance, at the time the contract is entered into, of the Fund required to be used to satisfy the obligation.

(e) Notification Required for Transfers.—A transfer of appropriated amounts to the Fund under subsection (b)(2) of this section may be made only after the end of a 30-day period beginning on the date the Secretary submits written notice of, and justification for, the transfer to the appropriate committees of Congress.


AMENDMENTS

2010—Subsec. (b)(2). Pub. L. 111–281, §221(a)(6)(A)(i), substituted “or military unaccompanied” for “or unaccompanied”.

Subsec. (b)(3). Pub. L. 111–281, §221(a)(6)(A)(ii), substituted “military family housing and” for “military family and” and struck out “or lease” after “conveyance” and “or facilities” after “property”.

Subsec. (b)(4). Pub. L. 111–281, §221(a)(6)(A)(iii), struck out par. (4) which read as follows: “Income from any activities under this chapter, including interest on loan guarantees made under section 682 of this title, income and gains realized from investments under section 684 of this title, and any return of capital invested as part of such investments.”

Subsec. (c)(1). Pub. L. 111–281, §221(a)(6)(B), as amended by Pub. L. 111–330, amended par. (1) generally. Prior to amendment, par. (1) read as follows: “In such amounts as provided in appropriation Acts and except as provided in subsection (d), the Secretary may use amounts in the Coast Guard Housing Fund to carry out activities under this chapter with respect to military family and military unaccompanied housing units, including activities required in connection with the planning, execution, and administration of contracts entered into under the authority of this chapter.”

Subsec. (e). Pub. L. 111–281, §221(a)(6)(C), struck out “or (b)(3)” after “subsection (b)(2)”.

Subsecs. (f), (g). Pub. L. 111–281, §221(a)(6)(D), struck out subsecs. (f) and (g) which related to limitation on amount of budget authority and demonstration projects authorized, respectively.


Subsec. (g)(2). Pub. L. 108–293, §207(d)(4), substituted “such a demonstration project” for “the demonstration project”.

Subsec. (g)(4). Pub. L. 108–293, §207(d)(5), substituted “such demonstration projects” for “the demonstration project”.


Subsec. (f). Pub. L. 107–295, §402(b), substituted “$40,000,000” for “$30,000,000”.


EFFECTIVE DATE OF 2010 AMENDMENT


EFFECTIVE DATE OF 2002 AMENDMENT

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


§688. Reports

The Secretary shall prepare and submit to Congress, concurrent with the budget submitted pursuant to section 1105 of title 31, a report identifying the contracts or agreements for the conveyance of properties pursuant to this chapter executed during the prior calendar year.


AMENDMENTS

2010—Pub. L. 111–281 amended section generally. Prior to amendment, section required Secretary to include with the annual budget various reports and other materials in support of the budget.


EFFECTIVE DATE OF 2002 AMENDMENT

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

FINAL REPORT

Pub. L. 104–324, title II, §208(b), Oct. 19, 1996, 110 Stat. 3913, provided that: “Not later than March 1, 2000, the Secretary of the department in which the Coast Guard is operating shall submit to the Congress a report on...
the use by the Secretary of the authorities provided by chapter 18 of title 14, United States Code, as added by subsection (a). The report shall assess the effectiveness of such authority in providing for the construction and improvement of military family housing and military unaccompanied housing:


CHAPTER 19—ENVIRONMENTAL COMPLIANCE AND RESTORATION PROGRAM

§ 690. Definitions

For the purposes of this chapter—

(1) “environment”, “facility”, “person”, “release”, “removal”, “remedial”, and “response” have the same meaning they have in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601);

(2) “hazardous substance” has the same meaning it has in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601), except that it also includes the meaning given “oil” in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); and

(3) “pollutant” has the same meaning it has in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1322).


§ 691. Environmental Compliance and Restoration Program

(a) The Secretary shall carry out a program of environmental compliance and restoration at current and former Coast Guard facilities.

(b) Program goals include:

(1) Identifying, investigating, and cleaning up contamination from hazardous substances and pollutants.

(2) Correcting other environmental damage that poses an imminent and substantial danger to the public health or welfare or to the environment.

(3) Demolishing and removing unsafe buildings and structures, including buildings and structures at former Coast Guard facilities.

(4) Preventing contamination from hazardous substances and pollutants at current Coast Guard facilities.

(c)(1) The Secretary shall respond to releases of hazardous substances and pollutants—

(A) at each Coast Guard facility the United States owns, leases, or otherwise possesses;

(B) at each Coast Guard facility the United States owned, leased, or otherwise possessed when the actions leading to contamination from hazardous substances or pollutants occurred; and

(C) on each vessel the Coast Guard owns or operates.

(2) Paragraph (1) of this subsection does not apply to a removal or remedial action when a potentially responsible person responds under section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9622).

(3) The Secretary shall pay a fee or charge imposed by a state authority for permit services for disposing of hazardous substances or pollutants from Coast Guard facilities to the same extent that nongovernmental entities are required to pay for permit services. This paragraph does not apply to a payment that is the responsibility of a lessee, contractor, or other private person.

(d) The Secretary may agree with another Federal agency for that agency to assist in carrying out the Secretary’s responsibilities under this chapter. The Secretary may enter into contracts, cooperative agreements, and grant agreements with State and local governments to assist in carrying out the Secretary’s responsibilities under this chapter. Services that may be obtained under this subsection include identifying, investigating, and cleaning up off-site contamination that may have resulted from the release of a hazardous substance or pollutant at a Coast Guard facility.

(e) Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9619) applies to response action contractors that carry out response actions under this chapter. The Coast Guard shall indemnify response action contractors to the extent that adequate insurance is not generally available at a fair price at the time the contractor enters into the contract to cover the contractor’s reasonable, potential, long-term liability.


§ 692. Environmental Compliance and Restoration Account

(a) There is established for the Coast Guard an account known as the Coast Guard Environmental Compliance and Restoration Account. All sums appropriated to carry out the Coast Guard’s environmental compliance and restoration functions under this chapter or another law shall be credited or transferred to the account and remain available until expended.

(b) Funds may be obligated or expended from the account to carry out the Coast Guard’s environmental compliance and restoration functions under this chapter or another law.

(c) In proposing the budget for any fiscal year under section 1105 of title 31, United States Code, the President shall set forth separately the amount requested for the Coast Guard’s environmental compliance and restoration activities under this chapter or another law.

(d) Amounts recovered under section 107 of the Comprehensive Environmental Response, Com-
pensation, and Liability Act (42 U.S.C. 9607) for the Secretary’s response actions at current and former Coast Guard facilities shall be credited to the account.


§ 693. Annual Report to Congress

(a) The Secretary shall submit to Congress a report each fiscal year describing the progress the Secretary has made during the preceding fiscal year in implementing this chapter.

(b) Each report shall include:

(1) A statement for each facility or vessel for which the Secretary is responsible under section 691(c) of this title where a release of a hazardous substance or pollutant has been identified.

(2) The status of response actions contemplated or undertaken at each facility.

(3) The specific cost estimates and budgetary proposals for response actions contemplated or undertaken at each facility.

(4) The total amount required to clean up contamination at all identified facilities.


TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in this section, see section 3003 of Pub. L. 101–508, amending this section, set out as a note under section 1013 of Title 31, Money and Finance, and page 133 of House Document No. 103–7.

PART II—COAST GUARD RESERVE AND AUXILIARY

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23. Coast Guard Auxiliary 821
25. General Provisions for Coast Guard Reserve and Auxiliary 891

AMENDMENTS


CHAPTER 21—COAST GUARD RESERVE

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AMENDMENTS

1980—Pub. L. 96–222, §1, Apr. 4, 1980, 94 Stat. 1002, revised analysis generally by adding items 701 to 713 and 720 to 746, and by omitting items 751 to 765, and by omitting items 770 to 796.

1 So in original. Does not conform to section catchline.

2 So in original. Does not conform to section catchline.