

Sec.

2166. Continuation on active duty; Coast Guard officers with certain critical skills.

SUBCHAPTER III—GENERAL PROVISIONS

2181. Physical fitness of officers.

2182. Multirater assessment of certain personnel.

Editorial Notes**PRIOR PROVISIONS**

A prior analysis for chapter 21 “COAST GUARD RESERVE” consisted of items 701 “Organization”, 702 “Authorized strength”, 703 “Coast Guard Reserve Boards”, 704 “Grades and ratings; military authority”, 705 “Benefits”, 706 “Temporary members of the Reserve; eligibility and compensation”, 707 “Temporary members of the Reserve; disability or death benefits”, 708 “Temporary members of the Reserve; certificate of honorable service”, 709 “Reserve student aviation pilots; Reserve aviation pilots; appointments in commissioned grade”, 709a “Reserve student pre-commissioning assistance program”, 710 “Appointment or wartime promotion; retention of grade upon release from active duty”, 711 “Exclusiveness of service”, 712 “Active duty for emergency augmentation of regular forces”, 713 “Enlistment of members engaged in schooling”, 720 “Definitions”, 721 “Applicability of this subchapter”, 722 “Suspension of this subchapter in time of war or national emergency”, 723 “Effect of this subchapter on retirement and retired pay”, 724 “Authorized number of officers”, 725 “Precedence”, 726 “Running mates”, 727 “Constructive credit upon initial appointment”, 728 “Promotion of Reserve officers on active duty”, 729 “Promotion; recommendations of selection boards”, 730 “Selection boards; appointment”, 731 “Establishment of promotion zones under running mate system”, 732 “Eligibility for promotion”, 733 “Recommendation for promotion of an officer previously removed from an active status”, 734 “Qualifications for promotion”, 735 “Promotion; acceptance; oath of office”, 736 “Date of rank upon promotion; entitlement to pay”, 737 “Type of promotion; temporary”, 738 “Effect of removal by the President or failure of consent of the Senate”, 739 “Failure of selection for promotion”, 740 “Failure of selection and removal from an active status”, 741 “Retention boards; removal from an active status to provide a flow of promotion”, 742 “Maximum ages for retention in an active status”, 743 “Rear admiral and rear admiral (lower half); maximum service in grade”, 744 “Appointment of a former Navy or Coast Guard officer”, 745 “Grade on entry upon active duty”, and 746 “Recall of a retired officer; grade upon release”, prior to repeal by Pub. L. 115–282, title I, § 112(a), Dec. 4, 2018, 132 Stat. 4215.

AMENDMENTS

2022—Pub. L. 117–263, div. K, title CXII, §§ 11235(b), 11245(b)(2), Dec. 23, 2022, 136 Stat. 4035, 4045, added items 2120a and 2166.

2021—Pub. L. 116–283, div. G, title LVXXXII [LXXXII], §§ 8203(b), 8276(b), Jan. 1, 2021, 134 Stat. 4645, 4687, added items 2130 and 2131. Item 2130 was added at the end of the analysis for this chapter to reflect the probable intent of Congress, notwithstanding directory language adding that item “at the end” of the analysis for subchapter I of this chapter, and item 2131 was added after item 2130 at that location.

2018—Pub. L. 115–282, title I, § 112(a), Dec. 4, 2018, 132 Stat. 4215, inserted chapter 21 designation and heading and added items 2101 to 2182.

SUBCHAPTER I—APPOINTMENT AND PROMOTION**Editorial Notes****PRIOR PROVISIONS**

A prior subchapter A of chapter 21 designation and accompanying heading “GENERAL” were repealed by

Pub. L. 115–282, title I, § 112(c)(1), Dec. 4, 2018, 132 Stat. 4220.

AMENDMENTS

2018—Pub. L. 115–282, title I, § 112(c)(2), Dec. 4, 2018, 132 Stat. 4220, inserted subchapter I designation and heading.

Statutory Notes and Related Subsidiaries**OFFICER EVALUATION REPORT**

Pub. L. 115–282, title VIII, § 803, Dec. 4, 2018, 132 Stat. 4299, provided that:

“(a) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act [Dec. 4, 2018], the Commandant of the Coast Guard shall reduce lieutenant junior grade evaluation reports to the same length as an ensign or place lieutenant junior grade evaluations on an annual schedule.

“(b) SURVEYS.—Not later than 1 year after the date of the enactment of this Act, the Commandant of the Coast Guard shall conduct surveys of—

“(1) outgoing promotion board members and assignment officers to determine, at a minimum—

“(A) which sections of the officer evaluation report were most useful;

“(B) which sections of the officer evaluation report were least useful;

“(C) how to better reflect high performers; and

“(D) any recommendations for improving the officer evaluation report; and

“(2) at least 10 percent of the officers from each grade of officers from O1 to O6 to determine how much time each member of the rating chain spends on that member’s portion of the officer evaluation report.

(c) REVISIONS.—

“(1) IN GENERAL.—Not later than 4 years after the date of the completion of the surveys required by subsection (b), the Commandant of the Coast Guard shall revise the officer evaluation report, and provide corresponding directions, taking into account the requirements under paragraph (2).

“(2) REQUIREMENTS.—In revising the officer evaluation report under paragraph (1), the Commandant shall—

“(A) consider the findings of the surveys under subsection (b);

“(B) improve administrative efficiency;

“(C) reduce and streamline performance dimensions and narrative text;

“(D) eliminate redundancy with the officer specialty management system and any other record information systems that are used during the officer assignment or promotion process;

“(E) provide for fairness and equity for Coast Guard officers with regard to promotion boards, selection panels, and the assignment process; and

“(F) ensure officer evaluation responsibilities can be accomplished within normal working hours—

“(i) to minimize any impact to officer duties; and

“(ii) to eliminate any need for an officer to take liberty or leave for administrative purposes.

(d) REPORT.—

“(1) IN GENERAL.—Not later than 545 days after the date of the enactment of this Act [Dec. 4, 2018], the Commandant of the Coast Guard 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 findings of the surveys under subsection (b).

“(2) FORMAT.—The report under paragraph (1) shall be formatted by each rank, type of board, and position, as applicable.”

§ 2101. 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 individual 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.

(d) For the purposes of this section, the term “original”, with respect to the appointment of a member of the Coast Guard, refers to that member’s most recent appointment in the Coast Guard that is neither a promotion nor a demotion.

(Added Pub. L. 88-130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 177, § 211; amended Pub. L. 89-444, § 1(11), June 9, 1966, 80 Stat. 196; Pub. L. 98-557, § 15(a)(3)(B), Oct. 30, 1984, 98 Stat. 2865; Pub. L. 109-241, title II, § 217(a), July 11, 2006, 120 Stat. 525; Pub. L. 112-213, title II, § 206, Dec. 20, 2012, 126 Stat. 1546; renumbered § 2101, Pub. L. 115-282, title I, § 112(b), Dec. 4, 2018, 132 Stat. 4216; Pub. L. 116-283, div. G, title LVXXXV [LXXXV], § 8505(a)(13), Jan. 1, 2021, 134 Stat. 4748.)

Editorial Notes

AMENDMENTS

2021—Subsec. (b). Pub. L. 116-283 substituted “individual” for “person”.

2018—Pub. L. 115-282 renumbered section 211 of this title as this section.

2012—Subsec. (d). Pub. L. 112-213 added subsec. (d).

2006—Subsec. (a). Pub. L. 109-241 amended subsec. (a) generally. Prior to amendment, subsec. (a) related to Presidential appointment of commissioned officers in the Regular Coast Guard in grades of ensign or above.

1984—Subsec. (a)(2). Pub. L. 98-557 substituted reference to enlisted members for reference to enlisted men.

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

Statutory Notes and Related Subsidiaries

SAVINGS PROVISION

Pub. L. 88-130, § 5, Sept. 24, 1963, 77 Stat. 193, as amended by Pub. L. 89-444, § 3, June 9, 1966, 80 Stat. 198, provided that:

“(a) Officers in each grade who have been recommended as qualified for temporary promotion under laws and regulations in effect the day before the effective date of this Act [Sept. 24, 1963] but not promoted to the grade for which they were recommended shall be placed on a list of selectees in order of their precedence, and they shall be promoted as if they had been selected for promotion in the approved report of a selection board convened under this Act [enacting sections 41a, 211 to 214, 251 to 262, 271 to 277, 281 to 294, 321 to 327, 331 to 335, of this title amending sections 42, 44, 46, 47, 190, 433, 759a, and 791 of this title, and enacting provisions set out as notes under sections 262, 285, and 289 of this title, and repealing sections 221 to 248, 301 to 313a, 435 to 437, 439, and 440 of this title, and act Sept. 21, 1961, 75 Stat. 538, set out as a note under section 435 of this title].

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

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

“(d) An officer of the Regular Coast Guard who on the day before the effective date of this Act had been promoted to and was serving on active duty in a temporary grade higher than his permanent grade shall be considered to have been promoted to that grade under section 271 [now 2121] of title 14, United States Code.

“(e) An officer of the Regular Coast Guard who was appointed as a temporary commissioned officer under any provision of law in effect prior to the effective date of this Act and who is serving on active duty shall be considered to have been appointed under section 214 [now 2104] of title 14, United States Code, and subject to the provisions thereof. An officer of the Regular Coast Guard who was appointed as a permanent commissioned officer under any provision of law in effect prior to the effective date of this Act [Sept. 24, 1963], and who is serving on active duty shall be considered to have been appointed under section 211 [now 2101] 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 [now 2149] 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 [now 2149] of title 14, United States Code, the retirement of any other officer would be required after June 30, 1962, but less than six months following the effective date of this Act, his retirement shall be deferred until the last day of the twelfth month following the month in which this Act becomes effective, or June 30, 1964, whichever is earlier.

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

“(h) Notwithstanding section 1431 of title 10, United States Code, an original election, change, or revocation of an election, made under that section by an officer who is retired under the provisions of section 282, 283, 284, 285, or 288 [now 2142, 2143, 2144, 2145, or 2149] of title 14, United States Code, is effective if made prior to the first day of the third month following the month in which this Act is enacted [September 1963].”

Executive Documents**EX. ORD. NO. 14106. UNITED STATES COAST GUARD
OFFICER PERSONNEL MANAGEMENT**

Ex. Ord. No. 14106, Aug. 14, 2023, 88 F.R. 55905, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and in order to delegate certain functions concerning the appointment, promotion, separation, and retirement of commissioned officers of the United States Coast Guard, it is hereby ordered as follows:

SECTION 1. The Secretary of Homeland Security is directed to perform, without approval, ratification, or other action by the President, the following functions vested in the President:

(a) the authority vested in the President by section 2118(a) of title 14, United States Code, to approve, modify, or disapprove the report of a selection board;

(b) the authority vested in the President by sections 2118(b) and 2122(a) of title 14, United States Code, to remove a name of an officer from a selection board report or a list of selectees;

(c) the authority vested in the President by section 2101 of title 14, United States Code, to appoint officers from the categories described in section 2101(a)(1) of title 14, United States Code, to the grades of ensign, lieutenant (junior grade), and lieutenant, and to accept the resignations of officers appointed pursuant to section 2101 of title 14, United States Code;

(d) the authority vested in the President by section 2121(e) of title 14, United States Code, to appoint officers in the grades of lieutenant (junior grade) and lieutenant;

(e) the authority vested in the President by section 2104(a) of title 14, United States Code, to make temporary appointments not above lieutenant in the Regular Coast Guard and Coast Guard Reserve;

(f) the authority vested in the President by section 2150(f) of title 14, United States Code, to approve the report of a board convened to recommend for continuation on active duty officers serving in the grade of captain;

(g) the authority vested in the President by section 571(b) of title 10, United States Code, to appoint by commission regular chief warrant officers in the Coast Guard; and

(h) the authority vested in the President by sections 12241(b) and 571(b) of title 10, United States Code, to appoint by commission reserve chief warrant officers in the Coast Guard.

SEC. 2. (a) During a time of war or national emergency, the Secretary of Homeland Security is directed to perform the authority vested in the President by section 2125 of title 14, United States Code, to suspend the operation of any law relating to the selection, promotion, or involuntary separation of officers of the Coast Guard, and to temporarily promote officers serving on active duty and chief warrant officers serving on active duty, as authorized by section 2125 of title 14, United States Code, without the approval, ratification, or other action by the President.

(b) During a time of war or national emergency, the Secretary of Homeland Security is directed to perform the authority vested in the President by section 3733 of title 14, United States Code, to suspend the operation of subchapter II of chapter 37 of title 14, United States Code, concerning officers of the Coast Guard Reserve without the approval, ratification, or other action by the President.

(c) The authority delegated to the Secretary of Homeland Security by this section may not be exercised during the time of a national emergency declared by the President, unless the exercise of any such authority is specifically directed by the President in accordance with section 301 of the National Emergencies Act (50 U.S.C. 1631).

(d) The Secretary of Homeland Security shall ensure that actions taken pursuant to the authority delegated

by this section are accounted for as required by section 401 of the National Emergencies Act (50 U.S.C. 1641).

SEC. 3. All actions heretofore taken by the President with respect to the matters affected by this order and in force at the time of issuance of this order, including any regulations prescribed or approved by the President with respect to such matters, shall, except as they may be inconsistent with the provisions of this order, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this order.

SEC. 4. As used in this order, the term "functions" embraces duties, powers, responsibilities, authority, or discretion, and the term "perform" may be construed to mean "exercise."

SEC. 5. Whenever the entire Coast Guard operates as a service in the Navy, the references to the Secretary of Homeland Security in sections 1 and 2 of this order shall be deemed to be references to the Secretary of Defense.

SEC. 6. If any provision of this order or the application of such provision is held to be invalid, the remainder of this order and other dissimilar applications of such provision shall not be affected.

SEC. 7. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

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

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

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

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

J.R. BIDEN, JR.

§ 2102. 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) An individual appointed in the grade of ensign or above in the Regular Coast Guard shall be placed on the active duty promotion list in the order of his date of rank and seniority.

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

(Added Pub. L. 88-130, §1(1), Sept. 24, 1963, 77 Stat. 174, §41a; amended Pub. L. 91-278, §1(2), June 12, 1970, 84 Stat. 304; Pub. L. 93-174, §1(1),