

(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 costs of obtaining the order, including a reasonable attorney's fee.

(Added Pub. L. 104-324, title II, §209(a), Oct. 19, 1996, 110 Stat. 3914, §425; renumbered §2507, Pub. L. 115-282, title I, §114(b), Dec. 4, 2018, 132 Stat. 4223.)

#### Editorial Notes

##### AMENDMENTS

2018—Pub. L. 115-282 renumbered section 425 of this title as this section.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Pub. L. 104-324, §209(d), Oct. 19, 1996, 110 Stat. 3914, provided that: "This section [enacting this section and provisions set out as a note below] shall be effective on and after June 12, 1990."

##### SPECIAL RIGHT OF APPLICATIONS AFTER DEADLINE FOR COMPLETION OF BOARD ACTION

Pub. L. 104-324, §209(c), Oct. 19, 1996, 110 Stat. 3914, provided that: "This section [enacting this section and provisions set out as a note above] applies to any applicant who had an application filed with or pending before the Board or the Secretary of the department in which the Coast Guard is operating on or after June 12, 1990, who files with the Board for Correction of Military Records of the Coast Guard an application for relief under the amendment made by subsection (a) [enacting this section]. If a recommended decision was modified or reversed on review with final agency action occurring after expiration of the 10-month deadline under that amendment, an applicant who so requests shall have the order in the final decision vacated and receive the relief granted in the recommended decision if the Coast Guard has the legal authority to grant such relief. The recommended decision shall otherwise have no effect as precedent."

#### § 2508. Emergency leave retention authority

(a) IN GENERAL.—A duty assignment for an active duty member of the Coast Guard in support of a declaration of a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or in response to a spill of national significance shall be treated, for the purpose of section 701(e) of title 10, as a duty assignment in support of a contingency operation.

(b) DEFINITIONS.—In this section:

(1) SPILL OF NATIONAL SIGNIFICANCE.—The term "spill of national significance" means a discharge of oil or a hazardous substance that is declared by the Commandant to be a spill of national significance.

(2) DISCHARGE.—The term "discharge" has the meaning given that term in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701).

(Added Pub. L. 111-281, title II, §207(a), Oct. 15, 2010, 124 Stat. 2912, §426; renumbered §2508, Pub. L. 115-282, title I, §114(b), Dec. 4, 2018, 132 Stat. 4223; amended Pub. L. 117-263, div. A, title VI, §631(c)(1), Dec. 23, 2022, 136 Stat. 2631.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

##### AMENDMENTS

2022—Subsec. (a). Pub. L. 117-263 substituted "section 701(e)" for "section 701(f)(2)".

2018—Pub. L. 115-282 renumbered section 426 of this title as this section.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117-232 effective Jan. 1, 2023, see section 631(d) of Pub. L. 117-263, set out as a note under section 701 of Title 10, Armed Forces.

##### EFFECTIVE DATE

Pub. L. 111-281, title II, §207(c), Oct. 15, 2010, 124 Stat. 2912, provided that: "The amendments made by this section [enacting this section] shall be deemed to have been enacted on April 19, 2010."

#### § 2509. Prohibition of certain involuntary administrative separations

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary may not authorize the involuntary administrative separation of a covered individual based on a determination that the covered individual is unsuitable for deployment or other assignment due to a medical condition of the covered individual considered by a Physical Evaluation Board during an evaluation of the covered individual that resulted in the covered individual being determined to be fit for duty.

(b) REEVALUATION.—

(1) IN GENERAL.—The Secretary may require a Physical Evaluation Board to reevaluate any covered individual if the Secretary determines there is reason to believe that a medical condition of the covered individual considered by a Physical Evaluation Board during an evaluation of the covered individual renders the covered individual unsuitable for continued duty.

(2) RETIREMENTS AND SEPARATIONS.—A covered individual who is determined, based on a reevaluation under paragraph (1), to be unfit to perform the duties of the covered individual's office, grade, rank, or rating may be retired or separated for physical disability under chapter 61 of title 10.

(c) COVERED INDIVIDUAL DEFINED.—In this section, the term "covered individual" means any member of the Coast Guard who has been determined by a Physical Evaluation Board, pursuant to a physical evaluation by that board, to be fit for duty.

(Added Pub. L. 112-213, title II, §209(a), Dec. 20, 2012, 126 Stat. 1549, §427; amended Pub. L. 114-120, title II, §209(6), Feb. 8, 2016, 130 Stat. 41; renumbered §2509, Pub. L. 115-282, title I, §114(b), Dec. 4, 2018, 132 Stat. 4223.)