

TITLE 14 - COAST GUARD**PART I - REGULAR COAST GUARD****CHAPTER 11 - PERSONNEL****OFFICERS****d. discharges; retirements; revocation of commissions****§ 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 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. 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 this section shall, except as provided 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 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 vice admiral or the position of Superintendent of the Coast Guard Academy, 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.

(g) (1) Unless retired under another provision of law, an officer subject to this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the

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promotion year in which that officer completes a total of thirty-six years of active commissioned service unless selected for or serving in the grade of admiral.

(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.

(Added Pub. L. 88–130, § 1(10)(C), Sept. 24, 1963, 77 Stat. 187; amended Pub. L. 92–451, § 1(7), Oct. 2, 1972, 86 Stat. 756; Pub. L. 94–546, § 1(27), Oct. 18, 1976, 90 Stat. 2521; Pub. L. 97–136, § 6(b), Dec. 29, 1981, 95 Stat. 1706; Pub. L. 97–417, § 2(9)(A), Jan. 4, 1983, 96 Stat. 2086; Pub. L. 98–557, § 25(a)(2), Oct. 30, 1984, 98 Stat. 2872; Pub. L. 99–145, title V, § 514(c)(1), (2)(A), Nov. 8, 1985, 99 Stat. 629; Pub. L. 102–241, § 5, Dec. 19, 1991, 105 Stat. 2210; Pub. L. 103–206, title II, § 205(d), Dec. 20, 1993, 107 Stat. 2422.)

Amendments

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).

1991—Subsec. (a). Pub. L. 102–241, § 5(b)(1), substituted “that officer” for “he”.

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), (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 432, 433, 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.”

1985—Pub. L. 99–145, § 514(c)(2)(A), substituted “rear admirals (lower half)” for “commodores” in section catchline.

Subsec. (a). Pub. L. 99–145, § 514(c)(1), substituted “rear admiral (lower half)” for “commodore” in three places.

1984—Subsec. (a). Pub. L. 98–557 substituted “Boards” for “Board”.

1983—Pub. L. 97–417, § 2(9)(A)(i), inserted “and commodores” after “Rear admirals” in section catchline.

Subsec. (a). Pub. L. 97–417, § 2(9)(A)(ii), substituted “commodore or rear admiral” for “rear admiral” after “promotion list serving in the grade of” and after “each officer serving in the grade of”, and “five years combined service in the grades of commodore and rear admiral” for “five years service in that grade”.

1981—Subsec. (a). Pub. L. 97–136 inserted “or in the position of Chief of Staff” after “vice admiral”.

1976—Subsecs. (a), (e) to (g). Pub. L. 94–546 substituted “promotion year” for “fiscal year” wherever appearing.

1972—Pub. L. 92–451 substituted “continuation on active duty” for “retention on the active list” in section catchline.

Subsecs. (a), (b). Pub. L. 92–451 added subsecs. (a) and (b). Former subsecs. (a) and (b) redesignated (f) and (g), respectively.

Subsec. (c). Pub. L. 92–451 added subsec. (c). Former subsec. (c) provided that provisions of former subsecs. (a) and (b) were inapplicable to officers serving as Commandants.

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Subsecs. (d), (e). Pub. L. 92-451 added subsecs. (d) and (e).

Subsec. (f). Pub. L. 92-451 incorporated provisions of former subsec. (a) in provisions designated as subsec. (f), and among other changes extended the minimum service for retirement from 35 years to 36 years of active commissioned service and deleted the alternative seven year permanent grade service.

Subsec. (g). Pub. L. 92-451 incorporated provisions of former subsec. (b) in provisions designated as subsec. (g), and among other changes, substituted officer for rear admiral.

Effective Date of 1972 Amendment

Section 3 of Pub. L. 92-451 provided that: "This Act [enacting sections 50 and 51 of this title, and amending this section, sections 41, 42, 44, 47, and 287 of this title, and section 202 of Title 37, Pay and Allowances of the Uniformed Services] is effective upon enactment [Oct. 2, 1972] except that continuation boards, pursuant to subsection (a) of section 290 of title 14, United States Code, as amended by this Act [subsec. (a) of this section], may not be held until one year following enactment hereof [Oct. 2, 1972]. During the period of one year following enactment hereof the Secretary of the Department in which the Coast Guard is operating shall convene a board consisting of not less than three Coast Guard officers serving in the grade of vice admiral to recommend for continuation on active duty Coast Guard officers on the active duty promotion list serving in the grade of rear admiral, who during the fiscal year in which the board meets will complete not less than five years' service in that grade. Subsections (b) through (g) of section 290 and other sections of title 14, United States Code, as amended by this Act [sections 41, 42, 44, 47, 50, 51, and 287 of this title], apply to continuation board action taken pursuant to this section. No officer who is entitled to the basic pay of a rear admiral of the upper half may have his basic pay reduced because of the reduction which results from this Act in the number of officers entitled to the basic pay of a rear admiral of the upper half."

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.