

(Pub. L. 107-372, title II, §241, Dec. 19, 2002, 116 Stat. 3088.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853g of this title prior to repeal by Pub. L. 107-372.

**§ 3042. Separation pay**

**(a) Authorization of payment**

An officer who is separated under section 3041(a)(2) of this title and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) of this section unless the Secretary determines that the conditions under which the officer is separated do not warrant payment of that pay.

**(b) Amount of separation pay**

**(1) Six or more years**

In the case of an officer who has completed six or more years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is 10 percent of the product of—

(A) the years of active service creditable to the officer; and

(B) 12 times the monthly basic pay to which the officer was entitled at the time of separation.

**(2) Three to six years**

In the case of an officer who has completed three or more but fewer than six years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is one-half of the amount computed under paragraph (1).

**(c) Other conditions, requirements, and administrative provisions**

The provisions of subsections (f), (g), and (h) of section 1174 of title 10 shall apply to separation pay under this section in the same manner as such provisions apply to separation pay under that section.

(Pub. L. 107-372, title II, §242, Dec. 19, 2002, 116 Stat. 3088.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853h of this title prior to repeal by Pub. L. 107-372.

**§ 3043. Mandatory retirement for age**

**(a) Officers below grade of rear admiral (lower half)**

Unless retired or separated earlier, each officer on the lineal list of the commissioned corps who is serving in a grade below the grade of 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 officers**

Notwithstanding subsection (a) of this section, the President may defer the retirement of an of-

ficer serving in a position that carries a grade above captain for such period as the President considers advisable, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 64 years of age.

(Pub. L. 107-372, title II, §243, Dec. 19, 2002, 116 Stat. 3089.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853k of this title prior to repeal by Pub. L. 107-372.

DELEGATION OF FUNCTIONS

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

**§ 3044. Retirement for length of service**

An officer who has completed 20 years of service, of which at least 10 years was service as a commissioned officer, may at any time thereafter, upon application by such officer and in the discretion of the President, be placed on the retired list.

(Pub. L. 107-372, title II, §244, Dec. 19, 2002, 116 Stat. 3089.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853l of this title prior to repeal by Pub. L. 107-372.

DELEGATION OF FUNCTIONS

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

**§ 3045. Computation of retired pay**

**(a) Officers first becoming members before September 8, 1980**

Each officer on the retired list who first became a member of a uniformed service before September 8, 1980, shall receive retired pay at the rate determined by multiplying—

(1) the retired pay base determined under section 1406(g) of title 10; by

(2) 2½ percent of the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

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

**(b) Officers first becoming members on or after September 8, 1980**

Each officer on the retired list who first became a member of a uniformed service on or after September 8, 1980, shall receive retired pay at the rate determined by multiplying—

(1) the retired pay base determined under section 1407 of title 10; by

(2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the

officer's service were service as a member of the Armed Forces.

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

**(1) In general**

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

(A) each full month of service that is in addition to the number of full years of service creditable to the officer shall be credited as  $\frac{1}{12}$  of a year; and

(B) any remaining fractional part of a month shall be disregarded.

**(2) Rounding**

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

(Pub. L. 107-372, title II, §245, Dec. 19, 2002, 116 Stat. 3089.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853o of this title prior to repeal by Pub. L. 107-372.

**§ 3046. Retired grade and retired pay**

Each officer retired pursuant to law shall be placed on the retired list with the highest grade satisfactorily held by that officer while on active duty including active duty pursuant to recall, under permanent or temporary appointment, and shall receive retired pay based on such highest grade, if—

(1) the officer's performance of duty in such highest grade has been satisfactory, as determined by the Secretary of the department or departments under whose jurisdiction the officer served; and

(2) unless retired for disability, the officer's length of service in such highest grade is no less than that required by the Secretary of officers retiring under permanent appointment in that grade.

(Pub. L. 107-372, title II, §246, Dec. 19, 2002, 116 Stat. 3090.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 853p and 857-2 of this title prior to repeal by Pub. L. 107-372.

**§ 3047. Retired rank and pay held pursuant to other laws unaffected**

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

(Pub. L. 107-372, title II, §247, Dec. 19, 2002, 116 Stat. 3090.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 853q of this title prior to repeal by Pub. L. 107-372.

**§ 3048. Continuation on active duty; deferral of retirement**

The provisions of subchapter IV of chapter 36 of title 10 relating to continuation on active

duty and deferral of retirement shall apply to commissioned officers of the Administration.

(Pub. L. 107-372, title II, §248, Dec. 19, 2002, 116 Stat. 3090.)

**§ 3049. Recall to active duty**

The provisions of chapter 39 of title 10 relating to recall of retired officers to active duty, including the limitations on such recalls, shall apply to commissioned officers of the Administration.

(Pub. L. 107-372, title II, §249, Dec. 19, 2002, 116 Stat. 3090.)

SUBCHAPTER IV—SERVICE OF OFFICERS WITH THE MILITARY DEPARTMENTS

**§ 3061. Cooperation with and transfer to military departments**

**(a) Transfers of resources and officers during national emergency**

**(1) Transfers authorized**

The President may, whenever in the judgment of the President a sufficient national emergency exists, transfer to the service and jurisdiction of a military department such vessels, equipment, stations, and officers of the Administration as the President considers to be in the best interest of the country.

**(2) Responsibility for funding of transferred resources and officers**

After any such transfer all expenses connected therewith shall be defrayed out of the appropriations for the department to which the transfer is made.

**(3) Return of transferred resources and officers**

Such transferred vessels, equipment, stations, and officers shall be returned to the Administration when the national emergency ceases, in the opinion of the President.

**(4) Rule of construction**

Nothing in this section shall be construed as transferring the Administration or any of its functions from the Department of Commerce except in time of national emergency and to the extent provided in this section.

**(b) Limitation on transfer of officers**

This section does not authorize the transfer of an officer of the Administration to a military department if the accession or retention of that officer in that military department is otherwise not authorized by law.

**(c) Status of transferred officers**

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

(Pub. L. 107-372, title II, §251, Dec. 19, 2002, 116 Stat. 3090.)