

§ 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), the President may defer the retirement of an officer 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.)

Editorial Notes

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.

Executive Documents

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.)

Editorial Notes

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.

Executive Documents

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) 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.

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)—

(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; Pub. L. 114-92, div. A, title VI, §631(c)(3), Nov. 25, 2015, 129 Stat. 844.)

Editorial Notes

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.

AMENDMENTS

2015—Subsec. (a)(2). Pub. L. 114-92 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “ $\frac{2}{3}$ 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.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT; IMPLEMENTATION

Amendment by Pub. L. 114-92 effective Jan. 1, 2018, with certain implementation requirements, see section 635 of Pub. L. 114-92, set out as a note under section 8432 of Title 5, Government Organization and Employees.

§ 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 ac-

tive 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.)

Editorial Notes

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.)

Editorial Notes

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.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 855 of this title prior to repeal by Pub. L. 107-372.

Executive Documents

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Commerce by section 1(k) 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.

§ 3062. Relative rank of officers when serving with Army, Navy, or Air Force

When serving with the Army, Navy, or Air Force, an officer of the Administration shall rank with and after officers of corresponding grade in the Army, Navy, or Air Force of the same length of service in grade. Nothing in this subchapter shall be construed to affect or alter an officer's rates of pay and allowances when not assigned to military duty.