

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.

(Pub. L. 107-372, title II, §252, Dec. 19, 2002, 116 Stat. 3091.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 856 of this title prior to repeal by Pub. L. 107-372.

§ 3063. Rules and regulations when cooperating with military departments

(a) Joint regulations

The Secretary of Defense and the Secretary of Commerce shall jointly prescribe regulations—

- (1) governing the duties to be performed by the Administration in time of war; and
- (2) providing for the cooperation of the Administration with the military departments in time of peace in preparation for its duties in time of war.

(b) Approval

Regulations under subsection (a) shall not be effective unless approved by each of those Secretaries.

(c) Communications

Regulations under subsection (a) may provide procedures for making reports and communications between a military department and the Administration.

(Pub. L. 107-372, title II, §253, Dec. 19, 2002, 116 Stat. 3091.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 858 of this title prior to repeal by Pub. L. 107-372.

SUBCHAPTER V—RIGHTS AND BENEFITS

§ 3071. Applicability of certain provisions of title 10

(a) Provisions made applicable to the corps

The rules of law that apply to the Armed Forces under the following provisions of title 10, as those provisions are in effect from time to time, apply also to the commissioned officer corps of the Administration:

- (1) Chapter 40, relating to leave.
- (2) Section 533(b), relating to constructive service.
- (3) Section 716, relating to transfers between the armed forces and to and from National Oceanic and Atmospheric Administration.
- (4) Section 771, relating to unauthorized wearing of uniforms.
- (5) Section 774, relating to wearing religious apparel while in uniform.
- (6) Section 982, relating to service on State and local juries.
- (7) Section 1031, relating to administration of oaths.
- (8) Section 1034, relating to protected communications and prohibition of retaliatory personnel actions.
- (9) Section 1035, relating to deposits of savings.

(10) Section 1036, relating to transportation and travel allowances for escorts for dependents of members.

(11) Section 1052, relating to reimbursement for adoption expenses.

(12) Section 1074n, relating to annual mental health assessments.

(13) Section 1090a, relating to referrals for mental health evaluations.

(14) Chapter 58, relating to the benefits and services for members being separated or recently separated.

(15) Section 1174a, relating to special separation benefits (except that benefits under subsection (b)(2)(B) of such section are subject to the availability of appropriations for such purpose and are provided at the discretion of the Secretary of Commerce).

(16) Chapter 61, relating to retirement or separation for physical disability.

(17) Chapter 69, relating to retired grade, except sections 1370, 1375, and 1376.

(18) Chapter 71, relating to computation of retired pay.

(19) Chapter 73, relating to annuities based on retired or retainer pay.

(20) Subchapter II of chapter 75, relating to death benefits.

(21) Subchapter I of chapter 88, relating to military family programs, applicable on an as-available and fully reimbursable basis.

(22) Section 2005, relating to advanced education assistance, active duty agreements, and reimbursement requirements.

(23) Section 2634, relating to transportation of motor vehicles for members on permanent change of station.

(24) Sections 2731 and 2735, relating to property loss incident to service.

(25) Section 2771, relating to final settlement of accounts of deceased members.

(26) Such other provisions of subtitle A of that title as may be adopted for applicability to the commissioned officer corps of the National Oceanic and Atmospheric Administration by any other provision of law.

(b) References

The authority vested by title 10 in the “military departments”, “the Secretary concerned”, or “the Secretary of Defense” with respect to the provisions of law referred to in subsection (a) shall be exercised, with respect to the commissioned officer corps of the Administration, by the Secretary of Commerce or the Secretary’s designee. For purposes of paragraph (8) of subsection (a), the term “Inspector General” in section 1034 of such title 10 shall mean the Inspector General of the Department of Commerce.

(c) Regulations regarding protected communications and prohibition of retaliatory personnel actions

The Secretary may prescribe regulations to carry out the application of section 1034 of title 10 to the commissioned officer corps of the Administration, including by prescribing such administrative procedures for investigation and appeal within the commissioned officer corps as the Secretary considers appropriate.