

§ 514(b), Nov. 30, 1993, 107 Stat. 1649; Pub. L. 104–106, div. A, title V, § 511(b), title XV, § 1501(c)(31), Feb. 10, 1996, 110 Stat. 298, 500, related to promotion of reserve commissioned officers on active duty and not on the active duty list. See section 14311(e) of this title.

Section 8381, added Pub. L. 85–861, § 1(178)(C), Sept. 2, 1958, 72 Stat. 1531; amended Pub. L. 100–456, div. A, title XII, § 1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to transfer, discharge, or withdrawal of Federal recognition of reserve officers ceasing to occupy position of adjutant general or assistant adjutant general. See section 14314(b), (c) of this title.

AMENDMENTS

2018—Pub. L. 115–232 renumbered section 6408 of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of this title.

CHAPTER 845—RECALL TO ACTIVE DUTY

Sec.	
8383.	Retired members: grade.
8384.	Promotion of retired members to higher enlisted grades: retention of grade upon release from active duty.
8385.	Members of the Fleet Reserve and Fleet Marine Corps Reserve: authority to recall.
8386.	Members of the Fleet Reserve and Fleet Marine Corps Reserve: release from active duty.

Editorial Notes

PRIOR PROVISIONS

A prior chapter 845, consisting of sections 8571 to 8583, related to rank and command within the Air Force, prior to renumbering as chapter 925 of this title.

AMENDMENTS

2018—Pub. L. 115–232, div. A, title VIII, § 807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 575 of this title as this chapter and items 6483 to 6486 as 8383 to 8386, respectively.

1984—Pub. L. 98–525, title V, § 533(f)(2), Oct. 19, 1984, 98 Stat. 2528, struck out item 6482 “Retired enlisted members of the Regular Navy and Regular Marine Corps: authority to recall.”

1980—Pub. L. 96–513, title V, § 503(51), Dec. 12, 1980, 94 Stat. 2915, struck out items 6481 “Retired officers of the Regular Navy and Regular Marine Corps: authority to recall”, 6487 “Retired rear admirals: retired pay after two years of active duty”, and 6488 “Wartime appointments or promotions: retention of grade upon release from active duty”.

§ 8383. Retired members: grade

An officer who has been advanced on the retired list or in the Retired Reserve under former section 6150 of this title to a grade above captain in the Navy or above colonel in the Marine Corps, when recalled to active duty, may, in the discretion of the Secretary of the Navy, be recalled either in the grade he holds on the retired list or in the Retired Reserve or in the grade from which he was advanced.

(Aug. 10, 1956, ch. 1041, 70A Stat. 417, § 6483; Pub. L. 85–422, § 6(5), May 20, 1958, 72 Stat. 129; Pub. L. 88–132, § 5(m), Oct. 2, 1963, 77 Stat. 215; Pub. L.

90–623, § 2(10), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96–513, title III, § 363, Dec. 12, 1980, 94 Stat. 2903; renumbered § 8383, Pub. L. 115–232, div. A, title VIII, § 807(b)(17), Aug. 13, 2018, 132 Stat. 1836.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
6483	34 U.S.C. 410n (1st proviso).	Aug. 7, 1947, ch. 512, § 412(a) (1st proviso), 61 Stat. 874; Oct. 12, 1949, ch. 681, § 522(a), 63 Stat. 835.
	50 U.S.C. 1052(c) (2d sentence).	July 9, 1952, ch. 608, § 413(c) (2d sentence), 66 Stat. 500.

Subsection (a) states the general rule that a retired officer, when recalled to active duty, shall be recalled in the grade he holds on the retired list. The rule is derived, not from a specific provision of law, but from the fact that special legislative authority is required to recall a retired officer in any other grade.

The desirability of including a positive statement of the rule is pointed up by the legislative history of the Act of February 21, 1946, ch. 34, § 8(a), 60 Stat. 28, amending the Act of July 24, 1941, ch. 320, § 10(d), 55 Stat. 605 (34 U.S.C. 350i(d)). The 1946 amendment states the rule, but only as to a limited class of retired personnel, namely persons temporarily appointed or promoted under the 1941 Act while on the retired list. The amendment provided that such persons, when released to inactive duty, should be given the highest grade in which they had served satisfactorily and, if subsequently recalled to active duty, should be recalled in the grade so accorded them. The legislative history shows that the bill (S. 1405, 79th Cong., 1st sess.), originally was written so as to provide that retired personnel should be recalled in their prior permanent grades or ratings instead of in the higher grades accorded them on the retired list while on inactive duty. When a member of the Naval Affairs Committee of the House of Representatives suggested an amendment to allow retired personnel to be recalled in the higher grades, the Navy spokesman pointed out that no law was required to permit this; in fact, retired personnel would be *required* to be recalled in the grades they hold on the retired list in the absence of any law to the contrary. Thus the result desired by the committee member could be achieved, simply by deleting the provision instead of amending it. After some discussion, however, it was decided to adopt the suggested amendment in order not to “leave things to inference” (H. Rept. No. 158, December 6, 1945, pp. 2290–2292).

Section 412(a) of the Officer Personnel Act of 1947 (34 U.S.C. 410n) (codified, except for the first proviso, in § 6150 of this title), supplies a further reason why a positive statement of the rule is desirable. That section provides that an officer who has been specially commended for the performance of duty in actual combat shall, when retired, be placed on the retired list in the grade next higher than that in which serving at the time of retirement. The first proviso, codified in subsection (b) of this section, provided further that an officer advanced under § 412(a) to a flag or general officer grade could be recalled either in the advanced grade or in the grade from which advanced. The law was silent as to the grade in which other officers advanced under § 412(a) should be recalled. It was understood that they would be recalled in the advanced grade accorded them on the retired list, because there was no authority to recall them in any other grade. However, the Comptroller General raised a question as to their right to the pay of the higher grade when recalled. Although the final decision of the Comptroller General was in favor of the higher pay (30 Comp. Gen. 242, December 20, 1950), the fact that the question was raised indicates the confusion that results from leaving the rule to inference.

It appears that the rule was never in doubt until after the enactment of the two recent laws cited above, one