

Subsec. (c)(1). Pub. L. 100-456, §501(d)(2), struck out “, modification,” after “for his approval” and inserted at end “If the authority of the President under this paragraph to approve or disapprove the report of a selection board is delegated to the Secretary of Defense, it may not be redelegated except to an official in the Office of the Secretary of Defense.”

1986—Subsec. (b). Pub. L. 99-433, §402(c)(1), (2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 99-433, §402(c)(1), (3), redesignated subsec. (b) as (c) and in par. (1) inserted provisions directing the Secretary of Defense, before transmitting the report, to take appropriate action to resolve any disagreement between the Secretary concerned and the Chairman. Former subsec. (c) redesignated (d).

Subsecs. (d) to (f). Pub. L. 99-433, §402(c)(1), redesignated subsecs. (c) to (e) as (d) to (f), respectively.

1984—Subsec. (b)(2). Pub. L. 98-525 substituted “If the report of a selection board names an officer as having a record which indicates that the officer should be required to show cause for his retention on active duty, the Secretary concerned may provide for the review of the record of that officer as provided for under regulations prescribed under section 1181 of this title” for “The Secretary concerned may submit to a board of officers convened under section 1181 of this title the name of any officer who is named in the report of a selection board as having a record which indicates that the officer should be required to show cause for his retention on active duty”.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title V, §513(c), Oct. 17, 2006, 120 Stat. 2185, provided that: “The amendments made by this section [amending this section and section 1411 of this title] shall apply with respect to selection boards convened on or after the date of the enactment of this Act [Oct. 17, 2006].”

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-190 applicable to selection boards convened under section 611(a) of this title after end of 60-day period beginning Dec. 5, 1991, see section 504(e) of Pub. L. 102-190, set out as a note under section 615 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-456 effective 60 days after Sept. 29, 1988, and applicable with respect to selection boards convened under section 611(a) of this title on or after that effective date, see section 501(e) of Pub. L. 100-456, set out as a note under section 615 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-433 effective with respect to selection boards convened under section 611(a) of this title after end of 120-day period beginning on Oct. 1, 1986, see section 406(f) of Pub. L. 99-433, set out as a note under section 612 of this title.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b)(1) to approve, modify, or disapprove report of a selection board delegated to Secretary of Defense to perform, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, see Ex. Ord. No. 12396, §§1(a), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

Nothing in section 1 of Ex. Ord. No. 12396 deemed to delegate authority vested in President by subsec. (c) of this section to remove a name from a selection board report, see section 1(g) of Ex. Ord. No. 12396.

SUBCHAPTER II—PROMOTIONS

Sec.

619. Eligibility for consideration for promotion: time-in-grade and other requirements.

Sec.

619a. Eligibility for consideration for promotion: designation as joint qualified officer required before promotion to general or flag grade; exceptions.

620. Active-duty lists.

621. Competitive categories for promotion.

622. Numbers to be recommended for promotion.

623. Establishment of promotion zones.

624. Promotions: how made.

625. Authority to vacate promotions to grades of brigadier general and rear admiral (lower half).

626. Acceptance of promotions; oath of office.

AMENDMENTS

2008—Pub. L. 110-417, [div. A], title V, §521(b)(2), Oct. 14, 2008, 122 Stat. 4444, added item 619a and struck out former item 619a “Eligibility for consideration for promotion: joint duty assignment required before promotion to general or flag grade; exceptions”.

1993—Pub. L. 103-160, div. A, title IX, §931(c)(2), Nov. 30, 1993, 107 Stat. 1734, added items 619 and 619a and struck out former item 619 “Eligibility for consideration for promotion”.

1985—Pub. L. 99-145, title V, §514(b)(4)(B), Nov. 8, 1985, 99 Stat. 628, substituted “rear admiral (lower half)” for “commodore” in item 625.

1981—Pub. L. 97-86, title IV, §405(b)(4)(B), Dec. 1, 1981, 95 Stat. 1106, substituted “commodore” for “commodore admiral” in item 625.

§ 619. Eligibility for consideration for promotion: time-in-grade and other requirements

(a) TIME-IN-GRADE REQUIREMENTS.—(1) An officer who is on the active-duty list of the Army, Air Force, or Marine Corps and holds a permanent appointment in the grade of second lieutenant or first lieutenant or is on the active-duty list of the Navy and holds a permanent appointment in the grade of ensign or lieutenant (junior grade) may not be promoted to the next higher permanent grade until he has completed the following period of service in the grade in which he holds a permanent appointment:

(A) Eighteen months, in the case of an officer holding a permanent appointment in the grade of second lieutenant or ensign.

(B) Two years, in the case of an officer holding a permanent appointment in the grade of first lieutenant or lieutenant (junior grade), except that the minimum period of service in effect under this subparagraph before October 1, 2008, shall be eighteen months.

(2) Subject to paragraph (4), an officer who is on the active-duty list of the Army, Air Force, or Marine Corps and holds a permanent appointment in a grade above first lieutenant or is on the active-duty list of the Navy and holds a permanent appointment in a grade above lieutenant (junior grade) may not be considered for selection for promotion to the next higher permanent grade until he has completed the following period of service in the grade in which he holds a permanent appointment:

(A) Three years, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of captain, major, or lieutenant colonel or of an officer of the Navy holding a permanent appointment in the grade of lieutenant, lieutenant commander, or commander.

(B) One year, in the case of an officer of the Army, Air Force, or Marine Corps holding a

permanent appointment in the grade of colonel or brigadier general or of an officer of the Navy holding a permanent appointment in the grade of captain or rear admiral (lower half).

(3) When the needs of the service require, the Secretary of the military department concerned may prescribe a longer period of service in grade for eligibility for promotion, in the case of officers to whom paragraph (1) applies, or for eligibility for consideration for promotion, in the case of officers to whom paragraph (2) applies.

(4) The Secretary of the military department concerned may waive paragraph (2) to the extent necessary to assure that officers described in subparagraph (A) of such paragraph have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.

(5) In computing service in grade for purposes of this section, service in a grade held as a result of assignment to a position is counted as service in the grade in which the officer would have served except for such assignment or appointment.

(b) CONTINUED ELIGIBILITY FOR CONSIDERATION FOR PROMOTION OF OFFICERS WHO HAVE PREVIOUSLY FAILED OF SELECTION.—(1) Except as provided in paragraph (2), an officer who has failed of selection for promotion to the next higher grade remains eligible for consideration for promotion to that grade as long as he continues on active duty in other than a retired status and is not promoted.

(2) Paragraph (1) does not apply to a regular officer who is ineligible for consideration for promotion under section 631(c) of this title or to a reserve officer who has failed of selection for promotion to the grade of captain or, in the case of an officer of the Navy, lieutenant for the second time.

(c) OFFICERS TO BE CONSIDERED BY PROMOTION BOARDS.—(1) Each time a selection board is convened under section 611(a) of this title for consideration of officers in a competitive category for promotion to the next higher grade, each officer in the promotion zone (except as provided under paragraph (2)), and each officer above the promotion zone, for the grade and competitive category under consideration shall be considered for promotion.

(2) The Secretary of the military department concerned—

(A) may, in accordance with standards and procedures prescribed by the Secretary of Defense in regulations which shall apply uniformly among the military departments, limit the officers to be considered by a selection board from below the promotion zone to those officers who are determined to be exceptionally well qualified for promotion;

(B) may, by regulation, prescribe a period of time, not to exceed one year, from the time an officer is placed on the active-duty list during which the officer shall be ineligible for consideration for promotion; and

(C) may, by regulation, preclude from consideration by a selection board by which he would otherwise be eligible to be considered, an officer who has an established separation date that is within 90 days after the date the board is convened.

(3)(A) The Secretary of Defense may authorize the Secretaries of the military departments to preclude from consideration by selection boards for promotion to the grade of brigadier general or rear admiral (lower half) officers in the grade of colonel or, in the case of the Navy, captain who—

(i) have been considered and not selected for promotion to the grade of brigadier general or rear admiral (lower half) by at least two selection boards; and

(ii) are determined, in accordance with standards and procedures prescribed pursuant to subparagraph (B), as not being exceptionally well qualified for promotion.

(B) If the Secretary of Defense authorizes the Secretaries of the military departments to have the authority described in subparagraph (A), the Secretary shall prescribe by regulation the standards and procedures for the exercise of such authority. Those regulations shall apply uniformly among the military departments and shall include the following provisions:

(i) A requirement that the Secretary of a military department may exercise such authority in the case of a particular selection board only if the Secretary of Defense approves the exercise of that authority for that board.

(ii) A requirement that an officer may be precluded from consideration by a selection board under this paragraph only upon the recommendation of a preselection board of officers convened by the Secretary of the military department concerned and composed of at least three officers all of whom are serving in a grade higher than the grade of such officer.

(iii) A requirement that such a preselection board may not recommend that an officer be precluded from such consideration unless the Secretary concerned has given the officer advance written notice of the convening of such board and of the military records that will be considered by the board and has given the officer a reasonable period before the convening of the board in which to submit comments to the board.

(iv) A requirement that the Secretary convening such a preselection board shall provide general guidance to the board in accordance with standards and procedures prescribed by the Secretary of Defense in those regulations.

(v) A requirement that the preselection board may recommend that an officer be precluded from consideration by a selection board only on the basis of the general guidance provided by the Secretary of the military department concerned, information in the officer's official military personnel records that has been described in the notice provided the officer as required pursuant to clause (iii), and any communication to the board received from that officer before the board convenes.

(d) CERTAIN OFFICERS NOT TO BE CONSIDERED.—A selection board convened under section 611(a) of this title may not consider for promotion to the next higher grade any of the following officers:

(1) An officer whose name is on a promotion list for that grade as a result of his selection

for promotion to that grade by an earlier selection board convened under that section.

(2) An officer who is recommended for promotion to that grade in the report of an earlier selection board convened under that section, in the case of such a report that has not yet been approved by the President.

(3) An officer of the Marine Corps who is an officer designated for limited duty and who holds a grade above major.

(4) An officer in the grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who is on an approved all-fully-qualified-officers list under section 624(a)(3) of this title.

(5) An officer in the grade of captain or, in the case of the Navy, lieutenant who is not a citizen of the United States.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2854; amended Pub. L. 97-22, §4(c), July 10, 1981, 95 Stat. 126; Pub. L. 97-86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 98-525, title V, §§525(a), (b), 529(a), Oct. 19, 1984, 98 Stat. 2524, 2525, 2526; Pub. L. 99-145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 99-433, title IV, §404, Oct. 1, 1986, 100 Stat. 1032; Pub. L. 100-180, div. A, title XIII, §§1305(a), 1314(b)(4), Dec. 4, 1987, 101 Stat. 1173, 1175; Pub. L. 100-456, div. A, title V, §515(a)(1), (b), Sept. 29, 1988, 102 Stat. 1970; Pub. L. 102-190, div. A, title V, §504(d), Dec. 5, 1991, 105 Stat. 1357; Pub. L. 103-160, div. A, title IX, §931(b), (c)(1), Nov. 30, 1993, 107 Stat. 1734; Pub. L. 103-337, div. A, title X, §1070(b)(7), Oct. 5, 1994, 108 Stat. 2857; Pub. L. 105-85, div. A, title V, §503(a), Nov. 18, 1997, 111 Stat. 1724; Pub. L. 107-107, div. A, title V, §§504, 505(c)(1)(A), Dec. 28, 2001, 115 Stat. 1085, 1087; Pub. L. 108-375, div. A, title V, §501(a)(3)(B), Oct. 28, 2004, 118 Stat. 1873; Pub. L. 109-364, div. A, title V, §506, Oct. 17, 2006, 120 Stat. 2179.)

AMENDMENTS

2006—Subsec. (a)(1)(B). Pub. L. 109-364 substituted “October 1, 2008” for “October 1, 2005”.

2004—Subsec. (d)(5). Pub. L. 108-375 added par. (5).

2001—Subsec. (a). Pub. L. 107-107, §504(b)(1), inserted heading.

Subsec. (a)(1)(B). Pub. L. 107-107, §504(a), inserted “, except that the minimum period of service in effect under this subparagraph before October 1, 2005, shall be eighteen months” before period at end.

Subsec. (a)(4). Pub. L. 107-107, §504(c), substituted “subparagraph (A)” for “clause (A)”.

Subsec. (b). Pub. L. 107-107, §504(b)(2), inserted heading.

Subsec. (c). Pub. L. 107-107, §504(b)(3), inserted heading.

Subsec. (d). Pub. L. 107-107, §504(b)(4), inserted heading.

Subsec. (d)(4). Pub. L. 107-107, §505(c)(1)(A), added par. (4).

1997—Subsec. (d). Pub. L. 105-85, §503(a)(1), substituted “grade any of the following officers:” for “grade—” in introductory provisions.

Subsec. (d)(1). Pub. L. 105-85, §503(a)(2), substituted “An officer” for “an officer” and a period for “; or”.

Subsec. (d)(2). Pub. L. 105-85, §503(a)(4), added par. (2). Former par. (2) redesignated (3).

Subsec. (d)(3). Pub. L. 105-85, §503(a)(3), redesignated par. (2) as (3) and substituted “An officer” for “an officer”.

1994—Pub. L. 103-337 made technical correction to directory language of Pub. L. 103-160, §931(c)(1). See 1993 Amendment note below.

1993—Pub. L. 103-160, §931(c)(1), as amended by Pub. L. 103-337, inserted “: time-in-grade and other requirements” in section catchline.

Subsec. (e). Pub. L. 103-160, §931(b), struck out subsec. (e) which specified certain requirements for appointment to grade of brigadier general or rear admiral (lower half). See section 619a of this title.

1991—Subsec. (c)(2). Pub. L. 102-190, §504(d)(1), added subpar. (A), redesignated subpars. (C) and (D) as (B) and (C) respectively, and struck out former subpars. (A) and (B) which read as follows:

“(A) may, by regulation, prescribe procedures to limit the officers to be considered by a selection board—

“(i) from below the promotion zone; or

“(ii) in the case of a selection board to recommend officers for promotion to the grade of brigadier general or rear admiral (lower half),

to those officers who are determined to be exceptionally well qualified for promotion;

“(B) may, by regulation, prescribe criteria for determining which officers below the promotion zone or in the grades of colonel and, in the case of officers of the Navy, captain are exceptionally well qualified for promotion for the purposes of clause (A);”.

Subsec. (c)(3). Pub. L. 102-190, §504(d)(2), added par. (3).

1988—Subsec. (e)(1). Pub. L. 100-456, §515(a)(1)(A), substituted “January 1, 1994” for “January 1, 1992” in second sentence.

Subsec. (e)(2)(D), (E). Pub. L. 100-456, §515(b)(1), added subpars. (D) and (E) and struck out former subpar. (D) which read as follows: “until January 1, 1992, in the case of an officer who served before October 1, 1986, in an assignment (other than a joint duty assignment) that involved significant experience in joint matters (as determined by the Secretary).”

Subsec. (e)(3)(C). Pub. L. 100-456, §515(b)(2), substituted “paragraph (2) (other than under subparagraph (A) of that paragraph)” for “paragraph (2)(B), (2)(C), or (2)(D)”.

Subsec. (e)(5). Pub. L. 100-456, §515(a)(1)(B), added par. (5).

1987—Subsec. (e)(1). Pub. L. 100-180, §1305(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “An officer may not be selected for promotion to the grade of brigadier general or rear admiral (lower half) unless the officer has served in a joint duty assignment.”

Subsec. (e)(2)(D). Pub. L. 100-180, §1314(b)(4), substituted “October 1, 1986,” for “the date of the enactment of this subsection”.

1986—Subsec. (e). Pub. L. 99-433 added subsec. (e).

1985—Subsecs. (a)(2)(B), (c)(2)(A)(ii). Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore”.

1984—Subsec. (b). Pub. L. 98-525, §525(a), designated existing provisions as par. (1), substituted “Except as provided in paragraph (2), an officer” for “An officer”, and added par. (2).

Subsec. (c)(2)(D). Pub. L. 98-525, §525(b), added subpar. (D).

Subsec. (d)(2). Pub. L. 98-525, §529(a), struck out “Navy or” before “Marine Corps” and struck out “lieutenant commander or” before “major”.

1981—Subsec. (a)(2)(B). Pub. L. 97-86 substituted “commodore” for “commodore admiral”.

Subsec. (c)(2)(A). Pub. L. 97-22, §4(c)(1), struck out “and” after “promotion;”.

Subsec. (c)(2)(A)(ii). Pub. L. 97-86 substituted “commodore” for “commodore admiral”.

Subsec. (c)(2)(B). Pub. L. 97-22, §4(c)(2), substituted “for the purposes of clause (A); and” for the period at end of cl. (B).

Subsec. (c)(2)(C). Pub. L. 97-22, §4(c)(3), added cl. (C).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-375 effective on the first day of the first month beginning more than 180 days after Oct. 28, 2004, see section 501(g) of Pub. L. 108-375, set out as a note under section 531 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 503(d) of Pub. L. 105-85 provided that: “The amendments made by this section [amending this section and section 14301 of this title] shall take effect on the date of the enactment of this Act [Nov. 18, 1997] and shall apply with respect to selection boards that are convened under section 611(a), 14101(a), or 14502 of title 10, United States Code, on or after that date.”

EFFECTIVE DATE OF 1994 AMENDMENT

Section 1070(b) of Pub. L. 103-337 provided that the amendment made by that section is effective as of Nov. 30, 1993, and as if included in the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103-160, as enacted.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-190 applicable to selection boards convened under section 611(a) of this title after end of 60-day period beginning Dec. 5, 1991, see section 504(e) of Pub. L. 102-190, set out as a note under section 615 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97-86, set out as a note under section 101 of this title.

EFFECTIVE DATE

Subchapter effective Sept. 15, 1981, but the authority to prescribe regulations under this subchapter effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96-513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96-513, see section 601 et seq. of Pub. L. 96-513, set out as a note under section 611 of this title.

§ 619a. Eligibility for consideration for promotion: designation as joint qualified officer required before promotion to general or flag grade; exceptions

(a) GENERAL RULE.—An officer on the active-duty list of the Army, Navy, Air Force, or Marine Corps may not be appointed to the grade of brigadier general or rear admiral (lower half) unless the officer has been designated as a joint qualified officer in accordance with section 661 of this title.

(b) EXCEPTIONS.—Subject to subsection (c), the Secretary of Defense may waive subsection (a) in the following circumstances:

(1) When necessary for the good of the service.

(2) In the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist.

(3) In the case of—

(A) a medical officer, dental officer, veterinary officer, medical service officer, nurse, or biomedical science officer;

(B) a chaplain; or

(C) a judge advocate.

(4) In the case of an officer selected by a promotion board for appointment to the grade of

brigadier general or rear admiral (lower half) while serving in a joint duty assignment if the officer's total consecutive service in joint duty assignments is not less than two years and the officer has successfully completed a program of education described in subsections (b) and (c) of section 2155 of this title.

(5) In the case of an officer who served in a joint duty assignment that began before January 1, 1987, if the officer served in that assignment for a period of sufficient duration (which may not be less than 12 months) for the officer's service to have been considered a full tour of duty under the policies and regulations in effect on September 30, 1986.

(c) WAIVER TO BE INDIVIDUAL.—A waiver may be granted under subsection (b) only on a case-by-case basis in the case of an individual officer.

(d) SPECIAL RULE FOR GOOD-OF-THE-SERVICE WAIVER.—In the case of a waiver under subsection (b)(1), the Secretary shall provide that the first duty assignment as a general or flag officer of the officer for whom the waiver is granted shall be in a joint duty assignment.

(e) LIMITATION ON DELEGATION OF WAIVER AUTHORITY.—The authority of the Secretary of Defense to grant a waiver under subsection (b) (other than under paragraph (1) of that subsection) may be delegated only to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. The regulations shall specifically identify for purposes of subsection (b)(2) those categories of officers for which selection for promotion to brigadier general or, in the case of the Navy, rear admiral (lower half) is based primarily upon scientific and technical qualifications for which joint requirements do not exist.

(g) LIMITATION FOR GENERAL AND FLAG OFFICERS PREVIOUSLY RECEIVING JOINT DUTY ASSIGNMENT WAIVER.—A general officer or flag officer who before January 1, 1999, received a waiver of subsection (a) under the authority of this subsection (as in effect before that date) may not be appointed to the grade of lieutenant general or vice admiral until the officer completes a full tour of duty in a joint duty assignment.

(Added Pub. L. 103-160, div. A, title IX, §931(a), Nov. 30, 1993, 107 Stat. 1732; amended Pub. L. 104-106, div. A, title XV, §1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106-65, div. A, title V, §508, Oct. 5, 1999, 113 Stat. 591; Pub. L. 107-107, div. A, title V, §525(a), (b), Dec. 28, 2001, 115 Stat. 1099; Pub. L. 108-375, div. A, title V, §533, Oct. 28, 2004, 118 Stat. 1901; Pub. L. 110-417, [div. A], title V, §521(a), (b)(1), Oct. 14, 2008, 122 Stat. 4444.)

AMENDMENTS

2008—Pub. L. 110-417, §521(b)(1), substituted “Eligibility for consideration for promotion: designation as joint qualified officer required before promotion to general or flag grade; exceptions” for “Eligibility for consideration for promotion: joint duty assignment required before promotion to general or flag grade; exceptions” in section catchline.

Subsec. (a). Pub. L. 110-417, §521(a)(1), substituted “unless the officer has been designated as a joint qualified officer” for “unless—

“(1) the officer has completed a full tour of duty in a joint duty assignment (as described in section 664(f) of this title); and

“(2) for appointments after September 30, 2008, the officer has been selected for the joint specialty”.

Subsec. (b). Pub. L. 110-417, § 521(a)(2)(A), substituted “subsection (a)” for “paragraph (1) or paragraph (2) of subsection (a), or both paragraphs (1) and (2) of subsection (a),” in introductory provisions.

Subsec. (b)(4). Pub. L. 110-417, § 521(a)(2)(B), substituted “is not less than two years and the officer has successfully completed a program of education described in subsections (b) and (c) of section 2155 of this title” for “within that immediate organization is not less than two years”.

Subsec. (h). Pub. L. 110-417, § 521(a)(3), struck out heading and text of subsec. (h). Text read as follows: “An officer of the Navy designated as a qualified nuclear propulsion officer who before January 1, 1997, is appointed to the grade of rear admiral (lower half) without regard to subsection (a) may not be appointed to the grade of rear admiral until the officer completes a full tour of duty in a joint duty assignment.”

2004—Subsec. (a)(2). Pub. L. 108-375, § 533(a), substituted “September 30, 2008” for “September 30, 2007”.

Subsec. (b)(4). Pub. L. 108-375, § 533(b), substituted “if the officer’s” for “if—

“(A) at least 180 days of that joint duty assignment have been completed on the date of the convening of that selection board; and

“(B) the officer’s”.

2001—Subsec. (a). Pub. L. 107-107, § 525(a), substituted “unless—” and pars. (1) and (2) for “unless the officer has completed a full tour of duty in a joint duty assignment (as described in section 664(f) of this title).”

Subsec. (b). Pub. L. 107-107, § 525(b), in introductory provisions, substituted “may waive paragraph (1) or paragraph (2) of subsection (a), or both paragraphs (1) and (2) of subsection (a), in the following circumstances:” for “may waive subsection (a) in the following circumstances:”.

1999—Subsec. (g). Pub. L. 106-65, § 508(a), amended heading and text of subsec. (g) generally. Prior to amendment, subsec. (g) authorized the Secretary until Jan. 1, 1999, to waive subsecs. (a) and (d) for certain officers and contained restrictions on appointments of those officers.

Subsec. (h). Pub. L. 106-65, § 508(b), substituted “An officer of the Navy” for “(1) Until January 1, 1997, an officer of the Navy” and “who before January 1, 1997, is” for “may be” and struck out “. An officer so appointed” before “may not be appointed” and par. (2) which read as follows: “Not later than March 1 of each year from 1994 through 1997, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the implementation during the preceding calendar year of the transition plan developed by the Secretary pursuant to section 1305(b) of Public Law 100-180 (10 U.S.C. 619a note) with respect to service by qualified nuclear propulsion officers in joint duty assignments.”

1996—Subsec. (h)(2). Pub. L. 104-106 substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and House of Representatives”.

PROPOSED LEGISLATIVE CHANGES

Pub. L. 107-107, div. A, title V, § 525(c), Dec. 28, 2001, 115 Stat. 1099, directed the Secretary of Defense to submit to Congress, not later than Dec. 1, 2002, a draft proposal for such legislative changes to this section as the Secretary considered were needed to implement the amendment made to this section by section 525(a), (b) of Pub. L. 107-107.

REPORT ON PLANS FOR COMPLIANCE

Pub. L. 103-160, div. A, title IX, § 931(d), Nov. 30, 1993, 107 Stat. 1734, directed the Secretary of Defense to certify to Congress, not later than Feb. 1, 1994, that the Army, Navy, Air Force, and Marine Corps had each de-

veloped and implemented a plan for officer personnel assignment and promotion policies so as to ensure compliance with the requirements of this section, and provided that each such plan should ensure that by Jan. 1, 1999, the service covered by the plan would have enough officers who had completed a full tour of duty in a joint duty assignment so as to permit the orderly promotion of officers to brigadier general or, in the case of the Navy, rear admiral (lower half).

PLAN FOR SERVICE BY QUALIFIED NUCLEAR PROPULSION OFFICERS IN JOINT DUTY ASSIGNMENTS BY JANUARY 1, 1997; IMPLEMENTATION; REPORT

Pub. L. 103-160, div. A, title IX, § 931(f)(2), Nov. 30, 1993, 107 Stat. 1734, as amended by Pub. L. 103-337, div. A, title X, § 1070(b)(8)(A), Oct. 5, 1994, 108 Stat. 2857, directed the Secretary of Defense to revise the transition plan developed pursuant to Pub. L. 100-180, § 1305(b), formerly set out below, and to report on the revisions.

Pub. L. 100-456, div. A, title V, § 515(a)(3), Sept. 29, 1988, 102 Stat. 1970, directed the Secretary of Defense to revise the transition plan developed pursuant to Pub. L. 100-180, § 1305(b), formerly set out below, and to report on the revisions.

Pub. L. 100-180, div. A, title XIII, § 1305(b)-(d), Dec. 4, 1987, 101 Stat. 1173, 1174, as amended by Pub. L. 100-456, div. A, title V, § 515(a)(2), Sept. 29, 1988, 102 Stat. 1970; Pub. L. 103-160, div. A, title IX, § 931(f)(1), (3), Nov. 30, 1993, 107 Stat. 1734; Pub. L. 103-337, div. A, title X, § 1070(b)(8), Oct. 5, 1994, 108 Stat. 2857, directed the Secretary of Defense to develop and carry out a transition plan, to be implemented no later than six months after Dec. 4, 1987, for ensuring that during the period before Jan. 1, 1997, the maximum practicable number of officers of the Navy who were qualified nuclear propulsion officers had served in joint duty assignments and that by Jan. 1, 1997, the maximum practicable number of qualified nuclear propulsion officers in the grade of captain had qualified for appointment to the grade of rear admiral (lower half) by completing a full tour of duty in a joint duty assignment, and directed the Secretary to submit to committees of Congress on the date on which the plan was implemented a copy of the plan and a report explaining how the plan had fulfilled objectives.

§ 620. Active-duty lists

(a) The Secretary of the military department concerned shall maintain a single list of all officers (other than officers described in section 641 of this title) who are on active duty for each armed force under his jurisdiction (other than the Coast Guard when it is operating as a service in the Navy).

(b) Officers shall be carried on the active-duty list of the armed force of which they are members in the order of seniority of the grade in which they are serving on active duty. Officers serving in the same grade shall be carried in the order of their rank in that grade.

(c) An officer whose position on the active-duty list results from service under a temporary appointment or in a grade held by reason of assignment to a position has, when that appointment or assignment ends, the grade and position on the active-duty list that he would have held if he had not received that appointment or assignment.

(d) Under regulations prescribed by the Secretary of the military department concerned, a reserve officer who is ordered to active duty (whether voluntarily or involuntarily) during a war or national emergency and who would otherwise be placed on the active-duty list may be excluded from that list as determined by the

Secretary concerned. Exclusion of an officer from the active-duty list as the result of action by the Secretary concerned under the preceding sentence shall expire not later than 24 months after the date on which the officer enters active duty under an order to active duty covered by that sentence.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2855; amended Pub. L. 103-337, div. A, title XVI, §1624, Oct. 5, 1994, 108 Stat. 2961; Pub. L. 104-106, div. A, title XV, §1501(a)(1), Feb. 10, 1996, 110 Stat. 495.)

AMENDMENTS

1996—Subsec. (d). Pub. L. 104-106 made technical amendment to Pub. L. 103-337, §1624. See 1994 Amendment note below.

1994—Subsec. (d). Pub. L. 103-337, §1624, as amended by Pub. L. 104-106, added subsec. (d).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103-337, set out as a note under section 10001 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

Regulations prescribed under this section applicable to establishment of initial active-duty lists, see section 621(a) of Pub. L. 96-513, set out as a note under section 611 of this title.

§ 621. Competitive categories for promotion

Under regulations prescribed by the Secretary of Defense, the Secretary of each military department shall establish competitive categories for promotion. Each officer whose name appears on an active-duty list shall be carried in a competitive category of officers. Officers in the same competitive category shall compete among themselves for promotion.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2856.)

§ 622. Numbers to be recommended for promotion

Before convening a selection board under section 611(a) of this title for any grade and competitive category, the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, shall determine (1) the number of positions needed to accomplish mission objectives which require officers of such competitive category in the grade

to which the board will recommend officers for promotion, (2) the estimated number of officers needed to fill vacancies in such positions during the period in which it is anticipated that officers selected for promotion will be promoted, and (3) the number of officers authorized by the Secretary of the military department concerned to serve on active duty in the grade and competitive category under consideration. Based on such determinations, the Secretary of the military department concerned shall determine the maximum number of officers in such competitive category which the selection board may recommend for promotion.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2856.)

§ 623. Establishment of promotion zones

(a) Before convening a selection board under section 611(a) of this title to consider officers for promotion to any grade above first lieutenant or lieutenant (junior grade), the Secretary of the military department concerned shall establish a promotion zone for officers serving in each grade and competitive category to be considered by the board.

(b) The Secretary concerned shall determine the number of officers in the promotion zone for officers serving in any grade and competitive category from among officers who are eligible for promotion in that grade and competitive category. Such determination shall be made on the basis of an estimate of—

(1) the number of officers needed in that competitive category in the next higher grade in each of the next five years;

(2) the number of officers to be serving in that competitive category in the next higher grade in each of the next five years;

(3) in the case of a promotion zone for officers to be promoted to a grade to which section 523 of this title is applicable, the number of officers authorized for such grade under such section to be on active duty on the last day of each of the next five fiscal years; and

(4) the number of officers that should be placed in that promotion zone in each of the next five years to provide to officers in those years relatively similar opportunity for promotion.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2856.)

§ 624. Promotions: how made

(a)(1) When the report of a selection board convened under section 611(a) of this title is approved by the President, the Secretary of the military department concerned shall place the names of all officers approved for promotion within a competitive category on a single list for that competitive category, to be known as a promotion list, in the order of the seniority of such officers on the active-duty list. A promotion list is considered to be established under this section as of the date of the approval of the report of the selection board under the preceding sentence.

(2) Except as provided in subsection (d), officers on a promotion list for a competitive cat-

egory shall be promoted to the next higher grade when additional officers in that grade and competitive category are needed. Promotions shall be made in the order in which the names of officers appear on the promotion list and after officers previously selected for promotion in that competitive category have been promoted. Officers to be promoted to the grade of first lieutenant or lieutenant (junior grade) shall be promoted in accordance with regulations prescribed by the Secretary concerned.

(3)(A) Except as provided in subsection (d), officers on the active-duty list in the grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who are on an approved all-fully-qualified-officers list shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary concerned.

(B) An all-fully-qualified-officers list shall be considered to be approved for purposes of subparagraph (A) when the list is approved by the President. When so approved, such a list shall be treated in the same manner as a promotion list under this chapter.

(C) The Secretary of a military department may make a recommendation to the President for approval of an all-fully-qualified-officers list only when the Secretary determines that all officers on the list are needed in the next higher grade to accomplish mission objectives.

(D) For purposes of this paragraph, an all-fully-qualified-officers list is a list of all officers on the active-duty list in a grade who the Secretary of the military department concerned determines—

- (i) are fully qualified for promotion to the next higher grade; and
- (ii) would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 611(a) of this title upon the convening of such a board.

(b)(1) A regular officer who is promoted under this section is appointed in the regular grade to which promoted and a reserve officer who is promoted under this section is appointed in the reserve grade to which promoted.

(2) The date of rank of an officer appointed to a higher grade under this section is determined under section 741(d) of this title.

(c) Appointments under this section shall be made by the President, by and with the advice and consent of the Senate, except that appointments under this section in the grade of first lieutenant or captain, in the case of officers of the Army, Air Force, or Marine Corps, or lieutenant (junior grade) or lieutenant, in the case of officers of the Navy, shall be made by the President alone.

(d)(1) Under regulations prescribed by the Secretary of Defense, the appointment of an officer under this section may be delayed if—

(A) sworn charges against the officer have been received by an officer exercising general court-martial jurisdiction over the officer and such charges have not been disposed of;

(B) an investigation is being conducted to determine whether disciplinary action of any kind should be brought against the officer;

(C) a board of officers has been convened under chapter 60 of this title to review the record of the officer;

(D) a criminal proceeding in a Federal or State court is pending against the officer; or

(E) substantiated adverse information about the officer that is material to the decision to appoint the officer is under review by the Secretary of Defense or the Secretary concerned.

If no disciplinary action is taken against the officer, if the charges against the officer are withdrawn or dismissed, if the officer is not ordered removed from active duty by the Secretary concerned under chapter 60 of this title, if the officer is acquitted of the charges brought against him, or if, after a review of substantiated adverse information about the officer regarding the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, the officer is determined to be among the officers best qualified for promotion, as the case may be, then unless action to delay an appointment has also been taken under paragraph (2) the officer shall be retained on the promotion list (including an approved all-fully-qualified-officers list, if applicable) and shall, upon promotion to the next higher grade, have the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the active-duty list as he would have had if no delay had intervened, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the active-duty list as the Secretary considers appropriate under the circumstances.

(2) Under regulations prescribed by the Secretary of Defense, the appointment of an officer under this section may also be delayed in any case in which there is cause to believe that the officer has not met the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, or is mentally, physically, morally, or professionally unqualified to perform the duties of the grade for which he was selected for promotion. If it is later determined by a civilian official of the Department of Defense (not below the level of Secretary of a military department) that the officer is qualified for promotion to such grade and, after a review of adverse information regarding the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, the officer is determined to be among the officers best qualified for promotion to such grade, the officer shall be retained on the promotion list (including an approved all-fully-qualified-officers list, if applicable) and shall, upon such promotion, have the same date of rank, the same effective date for pay and allowances in the higher grade to which appointed, and the same position on the active-duty list as he would have had if no delay had intervened, unless the Secretary concerned determines that the officer was unqualified for promotion for any part of the delay. If the Secretary makes such a determination, the Secretary may adjust such date of rank, effective date of pay and allowances, and position on the active-duty list as the Secretary considers appropriate under the circumstances.

(3) The appointment of an officer may not be delayed under this subsection unless the officer has been given written notice of the grounds for the delay, unless it is impracticable to give such written notice before the effective date of the appointment, in which case such written notice shall be given as soon as practicable. An officer whose promotion has been delayed under this subsection shall be afforded an opportunity to make a written statement to the Secretary concerned in response to the action taken. Any such statement shall be given careful consideration by the Secretary.

(4) An appointment of an officer may not be delayed under this subsection for more than six months after the date on which the officer would otherwise have been appointed unless the Secretary concerned specifies a further period of delay. An officer's appointment may not be delayed more than 90 days after final action has been taken in any criminal case against such officer in a Federal or State court, more than 90 days after final action has been taken in any court-martial case against such officer, or more than 18 months after the date on which such officer would otherwise have been appointed, whichever is later.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2857; amended Pub. L. 97-22, §4(d), July 10, 1981, 95 Stat. 126; Pub. L. 97-295, §1(8), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 98-525, title V, §526, Oct. 19, 1984, 98 Stat. 2525; Pub. L. 107-107, div. A, title V, §505(a)(1), (c)(2)(A), (d)(1), Dec. 28, 2001, 115 Stat. 1085, 1087, 1088; Pub. L. 107-314, div. A, title X, §1062(a)(2), Dec. 2, 2002, 116 Stat. 2649; Pub. L. 109-364, div. A, title V, §511(a), (d)(1), Oct. 17, 2006, 120 Stat. 2181, 2183; Pub. L. 110-181, div. A, title X, §1063(c)(3), Jan. 28, 2008, 122 Stat. 322.)

AMENDMENTS

2008—Subsec. (d)(1). Pub. L. 110-181 amended directory language of Pub. L. 109-364, §511(a)(2)(D)(i). See 2006 Amendment note below.

2006—Subsec. (a)(1). Pub. L. 109-364, §511(d)(1), inserted at end “A promotion list is considered to be established under this section as of the date of the approval of the report of the selection board under the preceding sentence.”

Subsec. (d)(1). Pub. L. 109-364, §511(a)(2)(D)(ii), inserted “or if, after a review of substantiated adverse information about the officer regarding the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, the officer is determined to be among the officers best qualified for promotion,” after “brought against him,” in concluding provisions.

Pub. L. 109-364, §511(a)(2)(D)(i), as amended by Pub. L. 110-181, struck out “or” after “chapter 60 of this title.”

Pub. L. 109-364, §511(a)(1), substituted “prescribed by the Secretary of Defense” for “prescribed by the Secretary concerned” in introductory provisions.

Subsec. (d)(1)(E). Pub. L. 109-364, §511(a)(2)(A)-(C), added subpar. (E).

Subsec. (d)(2). Pub. L. 109-364, §511(a)(3), in first sentence inserted “has not met the requirement for exemplary conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, or” before “is mentally, physically,” and in second sentence substituted “If it is later determined by a civilian official of the Department of Defense (not below the level of Secretary of a military department) that the officer is qualified for promotion to such grade and, after a review of adverse information regarding the requirement for exemplary

conduct set forth in section 3583, 5947, or 8583 of this title, as applicable, the officer is determined to be among the officers best qualified for promotion to such grade” for “If the Secretary concerned later determines that the officer is qualified for promotion to such grade”.

Pub. L. 109-364, §511(a)(1), substituted “prescribed by the Secretary of Defense” for “prescribed by the Secretary concerned”.

2002—Subsec. (d)(1). Pub. L. 107-314 substituted “paragraph (2)” for “subsection (d)(2)” in concluding provisions.

2001—Subsec. (a)(3). Pub. L. 107-107, §505(a)(1), added par. (3).

Subsec. (c). Pub. L. 107-107, §505(d)(1), inserted “, in the case of officers of the Army, Air Force, or Marine Corps,” after “captain” and “, in the case of officers of the Navy,” after “(junior grade) or lieutenant”.

Subsec. (d)(1). Pub. L. 107-107, §505(c)(2)(A)(i), inserted “(including an approved all-fully-qualified-officers list, if applicable)” after “retained on the promotion list” in concluding provisions.

Subsec. (d)(2). Pub. L. 107-107, §505(c)(2)(A)(ii), inserted “shall be retained on the promotion list (including an approved all-fully-qualified-officers list, if applicable) and” after “to such grade, the officer” in second sentence.

1984—Subsec. (d)(1), (2). Pub. L. 98-525 inserted provision for a determination by the Secretary concerned that the officer was unqualified for promotion for any part of the delay in the officer's promotion, with the inserted provision that if the Secretary made such a determination, the Secretary could adjust such date of rank, effective date of pay and allowances, and position on the active-duty list as the Secretary considered appropriate under the circumstances.

1982—Subsec. (d)(4). Pub. L. 97-295 substituted “this subsection” for “the subsection”.

1981—Subsec. (a)(1). Pub. L. 97-22, §4(d)(1)(A), struck out “or in the case of officers selected for promotion to the grade of first lieutenant or lieutenant (junior grade), when a list of officers selected for promotion is approved by the President,” after “by the President.”

Subsec. (a)(2). Pub. L. 97-22, §4(d)(1)(B), inserted provision that officers to be promoted to grade of first lieutenant or lieutenant (junior grade) shall be promoted in accordance with regulations prescribed by the Secretary concerned.

Subsec. (c). Pub. L. 97-22, §4(d)(2), substituted “under this section in the grade of first lieutenant or captain or lieutenant (junior grade) or lieutenant” for “in the grade of first lieutenant or lieutenant (junior grade) under this section”.

Subsec. (d)(1). Pub. L. 97-22, §4(d)(3)(A), (B), substituted “Under regulations prescribed by the Secretary concerned, the appointment of an officer under this section may be delayed” for “The Secretary concerned may delay the appointment of an officer under this section” in provisions preceding subpar. (A) and, in provisions following subpar. (D), inserted “then unless action to delay an appointment has also been taken under subsection (d)(2)” after “as the case may be.”

Subsec. (d)(2). Pub. L. 97-22, §4(d)(3)(C), substituted “Under regulations prescribed by the Secretary concerned, the appointment of an officer under this section may also be delayed in any case in which” for “The Secretary concerned may also delay the appointment of an officer to the next higher grade under this section in any case in which the Secretary finds that”.

Subsec. (d)(3). Pub. L. 97-22, §4(d)(3)(D), (E), inserted “, unless it is impracticable to give such written notice before the effective date of the appointment, in which case such written notice shall be given as soon as practicable” after “grounds for the delay” and struck out “by the Secretary” after “the action taken”.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-181, div. A, title X, §1063(c), Jan. 28, 2008, 122 Stat. 322, provided that the amendment made by section 1063(c) is effective Oct. 17, 2006, and as if in-

cluded in the John Warner National Defense Authorization Act for Fiscal Year 2007, Pub. L. 109-364, as enacted.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title V, §511(e), Oct. 17, 2006, 120 Stat. 2184, provided that: “The amendments made by this section [amending this section and sections 14308 and 14311 of this title] shall take effect on the date of the enactment of this Act [Oct. 17, 2006] and shall apply with respect to officers on promotion lists established on or after the date of the enactment of this Act.”

DELEGATION OF FUNCTIONS

Functions of President under subsec. (c) to appoint officers in grades of first lieutenant and captain in Army, Air Force, and Marine Corps or in grades of lieutenant (junior grade) and lieutenant in Navy delegated to Secretary of Defense to perform, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, see Ex. Ord. No. 12396, §§1(c), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

DEADLINE FOR UNIFORM REGULATIONS ON DELAY OF PROMOTIONS

Pub. L. 109-364, div. A, title V, §511(c), Oct. 17, 2006, 120 Stat. 2183, provided that:

“(1) DEADLINE.—The Secretary of Defense shall prescribe the regulations required by section 624(d) of title 10, United States Code (as amended by subsection (a)(1) of this section), and the regulations required by section 14311 of such title (as amended by subsection (b)(1) of this section) not later than March 1, 2008.

“(2) SAVINGS CLAUSE FOR EXISTING REGULATIONS.—Until the Secretary of Defense prescribes regulations pursuant to paragraph (1), regulations prescribed by the Secretaries of the military departments under the sections referred to in paragraph (1) shall remain in effect.”

§ 625. Authority to vacate promotions to grades of brigadier general and rear admiral (lower half)

(a) The President may vacate the promotion to the grade of brigadier general or rear admiral (lower half) of an officer who has served less than 18 months in that grade after promotion to that grade under this chapter.

(b) An officer of the Army, Air Force, or Marine Corps whose promotion is vacated under this section holds the regular grade of colonel, if he is a regular officer, or the reserve grade of colonel, if he is a reserve officer. An officer of the Navy whose promotion is vacated under this section holds the regular grade of captain, if he is a regular officer, or the reserve grade of captain, if he is a reserve officer.

(c) The position on the active-duty list of an officer whose promotion is vacated under this section is the position he would have held had he not been promoted to the grade of brigadier general or rear admiral (lower half).

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2858; amended Pub. L. 97-86, title IV, §405(b)(1), (4)(A), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99-145, title V, §514(b)(1), (4)(A), Nov. 8, 1985, 99 Stat. 628.)

AMENDMENTS

1985—Pub. L. 99-145 substituted “rear admiral (lower half)” for “commodore” in section catchline and subsecs. (a) and (c).

1981—Pub. L. 97-86 substituted “commodore” for “commodore admiral” in section catchline and subsecs. (a) and (c).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97-86, set out as a note under section 101 of this title.

§ 626. Acceptance of promotions; oath of office

(a) An officer who is appointed to a higher grade under section 624 of this title is considered to have accepted such appointment on the date on which the appointment is made unless he expressly declines the appointment.

(b) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under section 624 of this title.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2858.)

SUBCHAPTER III—FAILURE OF SELECTION FOR PROMOTION AND RETIREMENT FOR YEARS OF SERVICE

Sec. 627. 628. 629. 630. 631. 632. 633. 634. 635. 636.	<p>Failure of selection for promotion.</p> <p>Special selection boards.</p> <p>Removal from a list of officers recommended for promotion.</p> <p>Discharge of commissioned officers with less than six years of active commissioned service or found not qualified for promotion for first lieutenant or lieutenant (junior grade).</p> <p>Effect of failure of selection for promotion: first lieutenants and lieutenants (junior grade).</p> <p>Effect of failure of selection for promotion: captains and majors of the Army, Air Force, and Marine Corps and lieutenants and lieutenant commanders of the Navy.</p> <p>Retirement for years of service: regular lieutenant colonels and commanders.</p> <p>Retirement for years of service: regular colonels and Navy captains.</p> <p>Retirement for years of service: regular brigadier generals and rear admirals (lower half).</p> <p>Retirement for years of service: regular officers in grades above brigadier general and rear admiral (lower half).</p>
--	--

AMENDMENTS

2008—Pub. L. 110-181, div. A, title V, §503(a)(3), Jan. 28, 2008, 122 Stat. 95, substituted “six years” for “five years” in item 630.

2001—Pub. L. 107-107, div. A, title V, §505(d)(4), Dec. 28, 2001, 115 Stat. 1088, struck out “regular” before “commissioned officers” in item 630, struck out “regular” before “first lieutenants” in item 631, and struck out “regular” before “captains and majors” and before “lieutenants and lieutenant commanders” in item 632.

1997—Pub. L. 105-85, div. A, title V, §506(c), Nov. 18, 1997, 111 Stat. 1726, substituted “regular officers in grades above brigadier general and rear admiral (lower half)” for “regular major generals and rear admirals” in item 636.

1985—Pub. L. 99-145, title V, §514(b)(5)(B), Nov. 8, 1985, 99 Stat. 628, substituted “rear admirals (lower half)” for “commodores” in item 635.

1981—Pub. L. 97-86, title IV, §405(b)(5)(B), Dec. 1, 1981, 95 Stat. 1106, substituted “commodores” for “commodore admirals” in item 635.

§ 627. Failure of selection for promotion

An officer in a grade below the grade of colonel or, in the case of an officer of the Navy, cap-