

for “proficiency pay for enlisted members” in item 307, and added item 306a.

1983—Pub. L. 98-94, title IX, §905(b)(2), title X, §1011(b)(2), Sept. 24, 1983, 97 Stat. 664, struck out item 308d “Special pay: bonus for enlistment, reenlistment, or extension of enlistment in elements of the ready Reserve other than the Selected Reserve”, added items 308g and 308h, and in item 310 inserted “or imminent danger”.

1981—Pub. L. 97-60, title I, §§117(c)(2), 120(b), Oct. 14, 1981, 95 Stat. 997, 999, added items 308f and 315.

1980—Pub. L. 96-579, §§3(e), 5(a)(2), Dec. 23, 1980, 94 Stat. 3364, 3366, added items 301c and 314.

Pub. L. 96-513, title V, §506(5), Dec. 12, 1980, 94 Stat. 2919, struck out items 302c “Special pay: medical officers of the Public Health Service” and 313 “Special pay: medical officers of the Public Health Service who execute active duty agreements”, and struck out “and physicians and dentists in the Public Health Service” after “forces” in item 311.

Pub. L. 96-342, title VIII, §§805(a)(2), 806(a)(2), Sept. 8, 1980, 94 Stat. 1094, 1096, added items 301b, 308d, and 308e.

Pub. L. 96-284, §§2(b), 3(a)(2), (b)(6), 4(d)(4), 5(b), June 28, 1980, 94 Stat. 589-593, added items 302c and 303a, and in item 302, substituted “medical officers of the armed forces” for “physicians”, item 311, substituted “dentists in the armed forces and physicians and dentists in the Public Health Service” for “physicians and dentists who extend their service on active duty”, and in item 313, inserted “of the Public Health Service” after “medical officers”.

1979—Pub. L. 96-107, title IV, §404(a)(2), Nov. 9, 1979, 93 Stat. 808, struck out item 309 “Reserves; members of National Guard: additional pay for performance of administrative duty.”

1978—Pub. L. 95-485, title IV, §404(b), title VIII, §804(b)(2), Oct. 20, 1978, 92 Stat. 1615, 1621, substituted “on duty” for “on sea duty or duty” in item 305, and added items 305a and 308c.

1977—Pub. L. 95-79, title IV, §403(a)(2), July 30, 1977, 91 Stat. 331, added item 308b.

1976—Pub. L. 94-356, §3, July 12, 1976, 90 Stat. 901, added items 312b and 312c.

1974—Pub. L. 93-294, §2(3), May 31, 1974, 88 Stat. 177, added item 301a.

Pub. L. 93-274, §1(1), (2), (4), May 6, 1974, 88 Stat. 94, 95, substituted “physicians” for “physicians and dentists” in item 302, and added items 302b and 313.

1972—Pub. L. 92-581, §1(1), (4), Oct. 27, 1972, 86 Stat. 1277, 1278, struck out “submarine” in item 312, and added item 312a.

1971—Pub. L. 92-129, title II, §§202(b), 203(b), Sept. 28, 1971, 85 Stat. 358, added items 302a and 308a.

1969—Pub. L. 91-20, §1(2), June 3, 1969, 83 Stat. 13, added item 312.

1967—Pub. L. 90-207, §1(2)(B), Dec. 16, 1967, 81 Stat. 651, added item 311.

1963—Pub. L. 88-132, §§9(a)(2), 12(c), Oct. 2, 1963, 77 Stat. 216, 218, substituted “while on sea duty or duty at certain places” for “sea and foreign duty” in item 305, and added item 310.

## SUBCHAPTER I—EXISTING SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES

### § 301. Incentive pay: hazardous duty

(a) Subject to regulations prescribed by the President, a member of a uniformed service who is entitled to basic pay is also entitled to incentive pay, in the amount set forth in subsection (b) or (c), for the performance of hazardous duty required by orders. In this subsection, the term “hazardous duty” means duty—

(1) involving frequent and regular participation in aerial flight as a crew member, as determined by the Secretary concerned, except for a member who is entitled to incentive pay under section 301a of this title;

(2) involving frequent and regular participation in aerial flight, not as a crew member under paragraph (1);

(3) involving parachute jumping as an essential part of military duty;

(4) involving the demolition of explosives as a primary duty, including training for that duty;

(5) inside a high- or low-pressure chamber;

(6) as a human acceleration or deceleration experimental subject;

(7) as a human test subject in thermal stress experiments;

(8) involving frequent and regular participation in flight operations on the flight deck of an aircraft carrier or of a ship other than an aircraft carrier from which aircraft are launched;

(9) involving frequent and regular exposure to highly toxic pesticides or involving laboratory work that utilizes live dangerous viruses or bacteria;

(10) involving (A) the servicing of aircraft or missiles with highly toxic fuels or propellants, (B) the testing of aircraft or missile systems (or components of such systems) during which highly toxic fuels or propellants are used, or (C) the handling of chemical munitions (or components of such munitions);

(11) involving regular participation as a member of a team conducting visit, board, search, and seizure operations aboard vessels in support of maritime interdiction operations;

(12) involving use of ski-equipped aircraft on the ground in Antarctica or on the Arctic ice-pack; or

(13) involving frequent and regular participation in aerial flight by a member who is serving as an air weapons controller crew member (as defined by the Secretary concerned) aboard an airborne warning and control system aircraft (as designated by such Secretary) and who is not entitled to incentive pay under section 301a of this title.

(b) For the performance of hazardous duty described in paragraph (1) of subsection (a), a member is entitled to monthly incentive pay as follows:

Pay Grade	Monthly Rate
O-10 .....	\$150
O-9 .....	150
O-8 .....	150
O-7 .....	150
O-6 .....	250
O-5 .....	250
O-4 .....	225
O-3 .....	175
O-2 .....	150
O-1 .....	150
W-5 .....	250
W-4 .....	250
W-3 .....	175
W-2 .....	150
W-1 .....	150
E-9 .....	240
E-8 .....	240
E-7 .....	240
E-6 .....	215
E-5 .....	190
E-4 .....	165

Pay Grade	Monthly Rate
E-3 .....	150
E-2 .....	150
E-1 .....	150

(c)(1) For the performance of hazardous duty described in paragraphs (2) through (12) of subsection (a), a member is entitled to \$150 a month. However, a member performing hazardous duty described in paragraph (3) of that subsection who also performs as an essential part of such duty parachute jumping in military free fall operations involving parachute deployment by the jumper without the use of a static line is entitled to \$225 a month.

(2)(A) For the performance of hazardous duty described in paragraph (13) of subsection (a), a member is entitled to monthly incentive pay based upon his years of service as an air weapons controller as follows:

Pay grade	Years of service as an air weapons controller							
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12
O-7 and above ..	\$200	\$200	\$200	\$200	\$200	\$200	\$200	\$200
O-6 .....	225	250	300	325	350	350	350	350
O-5 .....	200	250	300	325	350	350	350	350
O-4 .....	175	225	275	300	350	350	350	350
O-3 .....	150	156	188	206	350	350	350	350
O-2 .....	150	156	188	206	250	300	300	300
O-1 .....	150	156	188	206	250	250	250	250
W-4 .....	200	225	275	300	325	325	325	325
W-3 .....	175	225	275	300	325	325	325	325
W-2 .....	150	200	250	275	325	325	325	325
W-1 .....	150	150	150	175	325	325	325	325
E-9 .....	200	225	250	275	300	300	300	300
E-8 .....	200	225	250	275	300	300	300	300
E-7 .....	175	200	225	250	275	275	275	300
E-6 .....	156	175	200	225	250	250	250	300
E-5 .....	150	156	175	188	200	200	200	250
E-4 and below ..	150	156	175	188	200	200	200	200
Pay grade	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 25	
O-7 and above ..	\$200	\$200	\$200	\$200	\$200	\$200	\$150	
O-6 .....	350	350	350	300	250	250	225	
O-5 .....	350	350	350	300	250	250	225	
O-4 .....	350	350	350	300	250	250	225	
O-3 .....	350	350	300	275	250	225	200	
O-2 .....	300	300	275	245	210	200	180	
O-1 .....	250	250	245	210	200	180	150	
W-4 .....	325	325	325	276	250	225	200	
W-3 .....	325	325	325	275	250	225	200	
W-2 .....	325	325	325	275	250	225	200	
W-1 .....	325	325	325	275	250	225	200	
E-9 .....	300	300	300	275	230	200	200	
E-8 .....	300	300	300	265	230	200	200	
E-7 .....	300	300	300	265	230	200	200	
E-6 .....	300	300	300	265	230	200	200	
E-5 .....	250	250	250	225	200	175	150	
E-4 and below ..	200	200	200	175	150	150	150	

(B) For purposes of this paragraph, the years of service of a member as an air weapons controller shall be computed, under regulations prescribed by the Secretary concerned, from the date the member begins training leading to a designation as an air weapons controller, but there shall be excluded from such computation any period of more than 90 days during which the member performs primary duties other than as an air weapons controller.

(d)(1) In time of war, the President may suspend the payment of incentive pay for any hazardous duty described in subsection (a).

(2) A member is entitled to not more than two payments of incentive pay, authorized by this section, for a period of time during which he qualifies for more than one payment of that pay.

(e) A member of a uniformed service who is entitled to basic pay may be paid incentive pay under this subsection, at a monthly rate not to exceed \$150, for any month during which the member performs duty involving regular participation as a firefighting crew member, as determined by the Secretary concerned.

(f)(1) Under regulations prescribed by the President and to the extent provided for by appropriations, when a member of a reserve component of a uniformed service, or of the National Guard, who is entitled to compensation under section 206 of this title, performs, under orders, any duty described in subsection (a) for members entitled to basic pay, he is entitled to an increase in compensation equal to  $\frac{1}{30}$  of the monthly incentive pay authorized by subsection (b) or (c), as the case may be, for the performance of that hazardous duty by a member of a corresponding grade who is entitled to basic pay. He is entitled to the increase for as long as he is qualified for it, for each regular period of instruction, or period of appropriate duty, at which he is engaged for at least two hours, including that performed on a Sunday or holiday, or for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe under section 206(a) of this title. This subsection does not apply to a member who is entitled to basic pay under section 204 of this title for the entire month.

(2)(A) If in any calendar month a member performs duty as described in paragraph (1) and while entitled to basic pay also performs hazardous duty as described in the same paragraph of subsection (a) as constitutes the predicate for his entitlement under paragraph (1), the earned units of measuring entitlement for incentive pay under this section shall be combined. If the sum of units determined under the preceding sentence equals or exceeds the minimum standard prescribed by the President for entitlement to pay specified under subsections (b) and (c) for a member of corresponding grade who is entitled to basic pay for the entire relevant month, the member shall be entitled to an increase in compensation equal to  $\frac{1}{30}$  of the monthly incentive pay authorized by subsection (b) or (c) for the performance of that hazardous duty by a member of corresponding grade who is entitled to basic pay for the entire month.

(B) A member who qualifies for entitlement under this paragraph is entitled to the increase for each day in the relevant month in which he is entitled to basic pay pursuant to section 204 of this title or to compensation under section 206 of this title.

(C) In this paragraph, the term "units" means the significant increments of performance prescribed as qualifying standards in regulations promulgated by the President pursuant to this section.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 461; Pub. L. 88-132, §§ 6-8, Oct. 2, 1963, 77 Stat. 215, 216; Pub. L. 89-149, §§ 1-3, Aug. 28, 1965, 79 Stat. 585; Pub. L. 89-278, Oct. 20, 1965, 79 Stat. 1011; Pub. L. 89-718, § 52, Nov. 2, 1966, 80 Stat. 1121; Pub. L. 92-436, title VI, § 605, Sept. 26, 1972, 86 Stat. 740; Pub. L.

93–294, §2(1), (2), May 31, 1974, 88 Stat. 177; Pub. L. 96–343, §2(a), Sept. 8, 1980, 94 Stat. 1123; Pub. L. 96–513, title V, §516(5), Dec. 12, 1980, 94 Stat. 2938; Pub. L. 96–579, §3(a)–(c), Dec. 23, 1980, 94 Stat. 3360; Pub. L. 97–60, title I, §111(a)–(c), Oct. 14, 1981, 95 Stat. 992, 993; Pub. L. 98–94, title IX, §903(a), Sept. 24, 1983, 97 Stat. 635; Pub. L. 98–525, title VI, §624(a), Oct. 19, 1984, 98 Stat. 2542; Pub. L. 99–145, title VI, §§635(a), 647(a), title XIII, §1303(b)(2), Nov. 8, 1985, 99 Stat. 647, 655, 740; Pub. L. 99–661, div. A, title XIII, §1342(a), Nov. 14, 1986, 100 Stat. 3991; Pub. L. 100–26, §8(d)(1), (e)(2), Apr. 21, 1987, 101 Stat. 285, 286; Pub. L. 102–25, title VII, §702(b)(1), (2), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–190, div. A, title VI, §614, title XI, §1111(d)(1), Dec. 5, 1991, 105 Stat. 1377, 1492; Pub. L. 104–106, div. A, title VI, §615, Feb. 10, 1996, 110 Stat. 361; Pub. L. 105–85, div. A, title VI, §614, Nov. 18, 1997, 111 Stat. 1786; Pub. L. 105–261, div. A, title VI, §614(a), Oct. 17, 1998, 112 Stat. 2039; Pub. L. 107–107, div. A, title VI, §615(a), (b), Dec. 28, 2001, 115 Stat. 1136; Pub. L. 108–136, div. A, title VI, §615(a)–(c), Nov. 24, 2003, 117 Stat. 1502; Pub. L. 108–375, div. A, title VI, §615, Oct. 28, 2004, 118 Stat. 1948; Pub. L. 109–364, div. A, title X, §1071(c)(2), Oct. 17, 2006, 120 Stat. 2400.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
301(a) .....	37:235(a).	Feb. 18, 1946, ch. 30 (1st proviso under “General Provision”), 60 Stat. 20.
301(b) .....	37:235(b).	
301(c) .....	37:235(c).	
301(d) .....	37:235(d).	Oct. 12, 1949, ch. 681, §§204, 501(d), (e) (as applicable to incentive pay), 63 Stat. 809, 826, 827; Mar. 31, 1955, ch. 20, §2(4)–(7), 69 Stat. 19–21; Aug. 28, 1957, Pub. L. 85–208, 71 Stat. 484; May 20, 1958, Pub. L. 85–422, §1(6), 72 Stat. 124; June 30, 1960, Pub. L. 86–559, §8, 74 Stat. 282; July 12, 1960, Pub. L. 86–635, 74 Stat. 469; Aug. 17, 1961, Pub. L. 87–145, §§2, 3, 75 Stat. 382.
301(e) .....	37:235(e).	
301(f) .....	37:301(d).	
301(g) .....	37:301(e) (as applicable to incentive pay).	
	37:118a–1.	

In subsection (a), the words “is also entitled” are substituted for the words “shall, in addition thereto, be entitled”. The words “For the purposes of this subsection” are inserted for clarity. The word “competent” is omitted as surplusage.

In subsection (b), the words preceding the tables are substituted for section 235(b) (words preceding tables) of existing title 37. The words “Years of service computed under section 205” are inserted in the tables for clarity.

In subsection (f), the words “a member of a reserve component of a uniformed service, or of the National Guard” are substituted for the enumeration of the organizations concerned in section 301(d) of existing title 37. The words “when . . . performs, under orders, any duty described in subsection (a)(1)–(11) for members entitled to basic pay” are substituted for the words “when required by competent orders to perform any hazardous duty prescribed by or pursuant to section 235 of this title for members of the uniformed services entitled to receive basic pay and when in consequence of such orders they do perform any hazardous duty so prescribed”. The last sentence is substituted for section 301(e) (as applicable to (d)) of existing title 37.

In subsection (g), the words “entitled to incentive pay under section 301(a)(1) of this title” are substituted for the words “flight pay”. At the time of the enactment of the source statute, additional pay was author-

ized as “flight pay”. However, the Career Compensation Act of 1949 did not authorize “flight pay” but provided incentive pay in section 204(a)(1) [now section 301(a)(1) of this revised title] for “duty as a crew member . . . involving frequent and regular participation in aerial flight”. The words “before January 2 of each year” are substituted for the words “On or before January 1, annually”. The word “grade” is substituted for the word “rank” to conform to the definition in section 101(15) of this revised title.

## AMENDMENTS

2006—Subsec. (f)(2)(C). Pub. L. 109–364 struck out comma after “the term”.

2004—Subsecs. (d), (e). Pub. L. 108–375 designated existing provisions of subsec. (d) as par. (1) of subsec. (d), redesignated former subsec. (e) as par. (2) of subsec. (d), and added subsec. (e).

2003—Subsec. (a)(2). Pub. L. 108–136, §615(c)(1), substituted “paragraph” for “clause”.

Subsec. (a)(11) to (13). Pub. L. 108–136, §615(a), struck out “or” at end of par. (11), added par. (12), and redesignated former par. (12) as (13).

Subsec. (b). Pub. L. 108–136, §615(c)(1), substituted “paragraph” for “clause” in introductory provisions.

Subsec. (c)(1). Pub. L. 108–136, §615(c)(2), substituted “paragraphs” for “clauses”.

Pub. L. 108–136, §615(c)(1), substituted “paragraph” for “clause”.

Pub. L. 108–136, §615(b)(1), substituted “(12)” for “(11)”.

Subsec. (c)(2)(A). Pub. L. 108–136, §615(c)(1), substituted “paragraph” for “clause” in introductory provisions.

Pub. L. 108–136, §615(b)(2), substituted “(13)” for “(12)” in introductory provisions.

Subsec. (f)(2)(A). Pub. L. 108–136, §615(c)(1), substituted “paragraph” for “clause” after “same”.

2001—Subsec. (a)(11), (12). Pub. L. 107–107, §615(a), added par. (11) and redesignated former par. (11) as (12).

Subsec. (c)(1). Pub. L. 107–107, §615(b)(1), substituted “(11) of subsection (a)” for “(10) of subsection (a)”.

Subsec. (c)(2)(A). Pub. L. 107–107, §615(b)(2), substituted “(12) of subsection (a)” for “(11) of subsection (a)”.

1998—Subsec. (b). Pub. L. 105–261 in table substituted “165” for “150” as monthly rate for pay grade E–4, “190” for “150” as monthly rate for pay grade E–5, “215” for “175” as monthly rate for pay grade E–6, and “240” for “200” as monthly rate for pay grades E–7 to E–9.

1997—Subsec. (b). Pub. L. 105–85, §614(a)(2), in table substituted “150” for “125” as monthly rate for pay grades O–1, W–1, and E–4.

Pub. L. 105–85, §614(a)(1), in table substituted “150” for “110” as monthly rate for pay grades O–7 to O–10 and E–1 to E–3.

Subsec. (c)(1). Pub. L. 105–85, §614(c), substituted “\$150” for “\$110” and “\$225” for “\$165”.

Subsec. (c)(2)(A). Pub. L. 105–85, §614(b), in table substituted “150” for “100” in first column for pay grade W–1, “150” for “110” in last column for pay grade O–7 and above, and “150” for “125” in first column for pay grades O–1 to O–3, E–4 and below, and E–5, in second column for pay grade W–1, and in fourteenth and fifteenth columns for pay grade E–4 and below.

1996—Subsec. (a)(11). Pub. L. 104–106, §615(a), substituted “a member” for “an officer (other than a warrant officer)”.

Subsec. (c)(2)(A). Pub. L. 104–106, §615(c)(1), substituted “a member” for “an officer” in provisions before table.

Pub. L. 104–106, §615(b), amended table generally, adding provisions relating to pay grades W–1 through W–4 and E–4 and below through E–9.

Subsec. (c)(2)(B). Pub. L. 104–106, §615(c), substituted “a member” for “an officer” and substituted “the member” for “the officer” in two places.

1991—Pub. L. 102–25 struck out “of this section” and “of this subsection” wherever appearing.

Subsec. (b). Pub. L. 102-190, §111(d)(1), in table inserted provisions relating to pay grade of W-5, compensable at monthly rate of \$250, below item relating to pay grade O-1.

Subsec. (c)(1). Pub. L. 102-190, §614, substituted "in military free fall operations involving parachute deployment by the jumper without the use of a static line" for "at a high altitude with a low opening".

1987—Subsec. (a). Pub. L. 100-26, §8(e)(2)(A), substituted "In this subsection, the term" for "For the purposes of this subsection,".

Subsec. (b). Pub. L. 100-26, §8(d)(1), which directed that subsec. (b) be amended by substituting "Monthly Rate" for "Monthly rate" wherever appearing, could not be executed, because in the one place where the words appear, both words were already capitalized.

Subsec. (f)(2)(C). Pub. L. 100-26, §8(e)(2)(B), substituted "paragraph, the term" for "paragraph".

1986—Subsec. (a)(1). Pub. L. 99-661 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "as a crew member, as determined by the Secretary concerned, involving frequent and regular participation in aerial flight;".

1985—Subsec. (a)(1). Pub. L. 99-145, §635(a)(1)(A), substituted "a crew member" for "an enlisted crew member".

Subsec. (a)(10). Pub. L. 99-145, §635(a)(1)(B), in amending cl. (10) generally, designated existing provisions as cls. (A) and (B) and added cl. (C).

Subsec. (b). Pub. L. 99-145, §635(a)(2), amended table generally, striking out differentiation in pay rates based upon years of service and reflect an upward adjustment in the monthly incentive pay with respect to pay grades E-9 through E-1, and inserted provisions relating to monthly incentive pay for pay grades O-10 through O-1 and W-4 through W-1, respectively.

Subsec. (c)(1). Pub. L. 99-145, §1303(b)(2), directed the substitution of "(10)," for "(10),,". See amendment note below.

Pub. L. 99-145, §635(a)(3), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "For the performance of the hazardous duty described in clause (2), (3), (4), (5), (6), (7), (8), (9), or (10),, of subsection (a) of this section, an officer is entitled to \$110 a month and an enlisted member is entitled to \$83 a month."

Subsec. (f). Pub. L. 99-145, §647(a), designated existing provisions as par. (1), inserted "for the entire month" after "section 204 of this title", and added par. (2).

1984—Subsec. (a)(3). Pub. L. 98-525, §624(a)(1), redesignated cl. (4) as (3). Former cl. (3), relating to duty involving frequent and regular participation in glider flights, was struck out.

Subsec. (a)(4). Pub. L. 98-525, §624(a)(1), redesignated cl. (6) as (4). Former cl. (4) redesignated (3).

Subsec. (a)(5). Pub. L. 98-525, §624(a)(1), redesignated cl. (7) as (5). Former cl. (5), relating to duty involving intimate contact with persons afflicted with leprosy, was struck out.

Subsec. (a)(6) to (13). Pub. L. 98-525, §624(a)(1), redesignated cls. (8) to (13) as (6) to (11), respectively.

Subsec. (c)(1). Pub. L. 98-525, §624(a)(2), substituted "or (10)," for "(10), (11), or (12)".

Subsec. (c)(2). Pub. L. 98-525, §624(a)(3), substituted "(11)" for "(13)".

1983—Subsec. (a)(12). Pub. L. 98-94 inserted "or the testing of aircraft or missile systems (or components of such systems) during which highly toxic fuels or propellants are used".

1981—Subsec. (a). Pub. L. 97-60, §111(a), inserted reference in cl. (10) to a ship other than an aircraft carrier from which aircraft are launched, and added cls. (11) to (13).

Subsec. (b). Pub. L. 97-60, §111(b), amended table to reflect an upward adjustment in the monthly incentive pay.

Subsec. (c). Pub. L. 97-60, §111(c), designated existing provisions as par. (1), inserted reference to cls. (11) and (12) of subsec. (a) of this section and substituted "\$83" for "\$55", and added par. (2).

1980—Subsec. (a)(2). Pub. L. 96-579, §3(a), redesignated cl. (4) as (2) and struck out former cl. (2) defining "hazardous duty" as including submarine duty. See section 301c(a)(5) of this title.

Pub. L. 96-513, §516(5)(A), (B), in subcl. (B) substituted reference to subcl. (A) for reference to cl. (A), and in subcl. (B) substituted reference to subcl. (B) for reference to cl. (B).

Subsec. (a)(3). Pub. L. 96-579, §3(a), redesignated cl. (5) as (3) and struck out former cl. (3) defining "hazardous duty" as including duty as an operator or crew member of an operational, self-propelled submersible, including undersea exploration and research vehicles. See section 301c(a)(5) of this title.

Subsec. (a)(4) to (12). Pub. L. 96-579, §3(a), redesignated cls. (4) to (12) as (2) to (10), respectively.

Subsec. (b). Pub. L. 96-579, §3(b), struck out par. (1) designation for provision relating to monthly flight incentive pay for enlisted members and struck out par. (2) relating to monthly incentive pay for commissioned officers, warrant officers, and enlisted members for hazardous duty as crew member involving frequent and regular participation in aerial flight, submarine duty, and duty as an operator or crew member of an operational, self-propelled submersible, including undersea exploration and research vehicles, now reflected as to enlisted members in currently upgraded scale in subsec. (b) table and covered in section 301c(b) table reflecting currently upgraded scale for submarine duty by enlisted members, commissioned officers, and warrant officers.

Pub. L. 96-343 redesignated existing provision as par. (2), substituted "(2) or (3)" for "(1), (2), or (3)", and added par. (1).

Subsec. (c). Pub. L. 96-579, §3(c), inserted references to cls. (2) and (3) and struck out references to cls. (11) and (12) of subsec. (a) of this section.

Subsec. (f). Pub. L. 96-513, §516(5)(C), substituted reference to subsection (a) for reference to subsection (a)(1)-(12).

1974—Subsec. (a)(1). Pub. L. 93-294, §2(1), substituted "an enlisted crew member" for "a crew member".

Subsec. (g). Pub. L. 93-294, §2(2), repealed subsec. (g) which required the Secretary of each military department to report to Congress before January 2 each year the number of officers of the Army, Navy, or Air Force, as the case may be, above the grade of major or lieutenant commander, by grade and age group, who were entitled to incentive pay under subsec. (a)(1) of this section. See section 301a of this title.

1972—Subsec. (a)(2)(A). Pub. L. 92-436 included in the hazardous duty for incentive pay of a member of a submarine operational command the application of hours served underway in excess of 48 during the preceding five calendar months and not used to qualify for incentive pay, to satisfy of underway time requirements for the current month.

1966—Subsec. (a)(2). Pub. L. 89-718 made only style changes by capitalizing letter designations for cls. "A", "B", and "C" and by setting off text following cl. C through the device of moving the margin to the left of the margin for the clauses.

1965—Subsec. (a)(2). Pub. L. 89-278 included duty as a member of a submarine operational command staff whose duties require serving on a submarine during underway operations for certain specified periods within term "hazardous duty".

Subsec. (a)(12). Pub. L. 89-149, §1, added cl. (12).

Subsecs. (c), (f). Pub. L. 89-149, §§2, 3, inserted reference to cl. (12) of subsec. (a).

1963—Subsec. (a)(2). Pub. L. 88-132, §6, substituted "as determined by the Secretary concerned, on a submarine (including, in the case of nuclear-powered submarines, periods of training and rehabilitation after assignment thereto), or, in the case of personnel qualified in submarines, as a prospective crew-member of a submarine being constructed, and during periods of instruction to prepare for assignment to a submarine of advanced design or a position of increased responsibility".

ity on a submarine” for “on board a submarine, including, in the case of nuclear-powered submarines, periods of training and rehabilitation after assignment thereto as determined by the Secretary concerned, and including submarines under construction from the time builders’ trials begin”.

Subsec. (a)(9). Pub. L. 88-132, § 7, substituted “inside a high- or low-pressure chamber” for “as a low-pressure chamber inside observer”.

Subsec. (e). Pub. L. 88-132, § 8, substituted “not more than two payments” for “only one payment”.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title VI, § 615(d), Nov. 24, 2003, 117 Stat. 1502, provided that: “Paragraph (12) of section 301(a) of title 37, United States Code, as added by subsection (a)(3), shall apply to duty described in such paragraph that is performed on or after October 1, 2003.”

#### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-107, div. A, title VI, § 615(c), Dec. 28, 2001, 115 Stat. 1136, provided that: “Paragraph (11) of section 301(a) of title 37, United States Code, as added by subsection (a)(3), shall apply to duty described in such paragraph that is performed on or after January 1, 2002.”

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title VI, § 614(b), Oct. 17, 1998, 112 Stat. 2040, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1998, and shall apply with respect to months beginning on or after that date.”

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 1111(d)(1) of Pub. L. 102-190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as a note under section 521 of Title 10, Armed Forces.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-661, div. A, title XIII, § 1342(h)(1), Nov. 14, 1986, 100 Stat. 3992, provided that: “The amendments made by subsections (a) through (d) [amending this section and section 302 of this title and provisions set out as notes under sections 302b and 403 of this title] shall take effect on October 1, 1986, or the date of the enactment of this Act [Nov. 14, 1986], whichever is later.”

#### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-145, title VI, § 635(b), Nov. 8, 1985, 99 Stat. 648, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 1985.”

Pub. L. 99-145, title VI, § 647(b), Nov. 8, 1985, 99 Stat. 655, provided that: “The amendments made by subsection (a) [amending this section] shall apply to payments of incentive pay for hazardous duty performed after September 30, 1985.”

#### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-94, title IX, § 903(b), Sept. 24, 1983, 97 Stat. 635, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1983.”

#### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-60, title I, § 111(d), Oct. 14, 1981, 95 Stat. 994, provided that: “The amendments made by this section [amending this section] shall take effect as of October 1, 1981.”

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-579 effective Jan. 1, 1981, see section 3(g) of Pub. L. 96-579, set out as an Effective Date note under section 301c of this title.

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

Pub. L. 96-343, § 2(c), Sept. 8, 1980, 94 Stat. 1124, provided that: “The amendments made by this section [amending this section] shall be effective with respect to incentive pay payable for months after August 1980.”

#### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-294 effective June 1, 1974, see section 6 of Pub. L. 93-294, set out as an Effective Date note under section 301a of this title.

#### EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88-132 effective Oct. 1, 1963, see section 14 of Pub. L. 88-132, set out as a note under section 201 of this title.

#### TEMPORARY AUTHORITY FOR MONTHLY SPECIAL PAY FOR MEMBERS OF THE ARMED FORCES SUBJECT TO CONTINUING ACTIVE DUTY OR SERVICE UNDER STOP-LOSS AUTHORITIES

Pub. L. 111-84, div. A, title VI, § 620, Oct. 28, 2009, 123 Stat. 2357, provided that:

“(a) SPECIAL PAY AUTHORIZED.—The Secretary of the military department concerned may pay monthly special pay to any member of the Army, Navy, Air Force, or Marine Corps (including a member of a reserve component thereof) for any month, or portion of a month, in which the member serves on active duty in the Armed Forces, or has the member’s eligibility for retirement from the Armed Forces suspended, as described in subsection (b).

“(b) ELIGIBILITY REQUIREMENTS.—A member of the Armed Forces referred to in subsection (a) is eligible to receive special pay under this section if the member, at any time during the period beginning on October 1, 2009, and ending on June 30, 2011, serves on active duty while the member’s enlistment or period of obligated service is extended, or has the member’s eligibility for retirement suspended, pursuant to section 123 or 12305 of title 10, United States Code, or any other provision of law (commonly referred to as a ‘stop-loss authority’) that authorizes the President to extend an enlistment or period of obligated service, or suspend eligibility for retirement, of a member of the Armed Forces in time of war or national emergency declared by Congress or the President.

“(c) AMOUNT.—The amount of monthly special pay payable to a member under this section for a month may not exceed \$500.

“(d) CONSTRUCTION WITH OTHER PAYS.—Monthly special pay payable to a member under this section is in addition to any other amounts payable to the member by law.”

#### TRANSITIONAL PROVISIONS

Pub. L. 110-181, div. A, title VI, § 662, Jan. 28, 2008, 122 Stat. 180, provided that:

“(a) IMPLEMENTATION PLAN.—

“(1) DEVELOPMENT.—The Secretary of Defense shall develop a plan to implement subchapters II and III of chapter 5 of title 37, United States Code, as added by section 661(a), and to correspondingly transition all of the special and incentive pay programs for members of the uniformed services solely to provisions of such subchapters.

“(2) SUBMISSION.—Not later than one year after the date of the enactment of this Act [Jan. 28, 2008], the Secretary shall submit the implementation plan to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

“(b) TRANSITION PERIOD.—During a transition period of not more than 10 years beginning on the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense, the Secretary of a military department, and the Secretaries referred to in subsection (d) may con-

tinue to use the authorities in provisions in subchapter I of chapter 5 of title 37, United States Code, as designated by section 661(a), but subject to the terms of such provisions and such modifications as the Secretary of Defense may include in the implementation plan, to provide bonuses and special and incentive pays for members of the uniformed services.

“(c) NOTICE OF IMPLEMENTATION OF NEW AUTHORITIES.—Not less than 30 days before the date on which a special pay or bonus authority provided under subchapter II of chapter 5 of title 37, United States Code, as added by section 661(a), is first utilized, the Secretary of Defense shall submit to the congressional defense committees a notice of the implementation of the authority, including whether, as a result of implementation of the authority, a corresponding authority in subchapter I of such chapter, as designated by section 661(a), will no longer be used.

“(d) COORDINATION.—The Secretary of Defense shall prepare the implementation plan in coordination with—

“(1) the Secretary of Homeland Security, with respect to the Coast Guard;

“(2) the Secretary of Health and Human Services, with respect to the commissioned corps of the Public Health Service; and

“(3) the Secretary of Commerce, with respect to the National Oceanic and Atmospheric Administration.

“(e) NO EFFECT ON FISCAL YEAR 2008 OBLIGATIONS.—During fiscal year 2008, obligations incurred under subchapters I, II, and III of chapter 5 of title 37, United States Code, as amended by section 661, to provide bonuses, incentive pays, special pays, and similar payments to members of the uniformed services under such subchapters may not exceed the obligations that would be incurred in the absence of the amendments made by such section.”

#### RETENTION INCENTIVES INITIATIVE FOR CRITICALLY SHORT MILITARY OCCUPATIONAL SPECIALTIES

Pub. L. 105-261, div. A, title VI, § 622, Oct. 17, 1998, 112 Stat. 2042, provided that:

“(a) REQUIREMENT FOR NEW INCENTIVES.—The Secretary of Defense shall establish and provide for members of the Armed Forces qualified in critically short military occupational specialties a series of new incentives that the Secretary considers potentially effective for increasing the rates at which those members are retained in the Armed Forces for service in such specialties.

“(b) CRITICALLY SHORT MILITARY OCCUPATIONAL SPECIALTIES.—For the purposes of this section, a military occupational specialty is a critically short military occupational specialty for an Armed Force if the number of members retained in that Armed Force in fiscal year 1998 for service in that specialty is less than 50 percent of the number of members of that Armed Force that were projected to be retained in that Armed Force for service in the specialty by the Secretary of the military department concerned as of October 1, 1997.

“(c) INCENTIVES.—It is the sense of Congress that, among the new incentives established and provided under this section, the Secretary of Defense should include the following incentives:

“(1) Family support and leave allowances.

“(2) Increased special reenlistment or retention bonuses.

“(3) Repayment of educational loans.

“(4) Priority of selection for assignment to preferred permanent duty station or for extension at permanent duty station.

“(5) Modified leave policies.

“(6) Special consideration for Government housing or additional housing allowances.

“(d) RELATIONSHIP TO OTHER INCENTIVES.—Incentives provided under this section are in addition to any special pay or other benefit that is authorized under any other provision of law.

“(e) REPORTS.—(1) Not later than December 1, 1998, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that identifies, for each of the Armed Forces, the critically short military occupational specialties to which incentives under this section are to apply.

“(2) Not later than April 15, 1999, the Secretary of Defense shall submit to the congressional defense committees a report that specifies, for each of the Armed Forces, the incentives that are to be provided under this section.”

#### PERSONS ENTITLED TO RECEIVE INCENTIVE PAY FOR DUTY INVOLVING CONTACT WITH PERSONS AFFLICTED WITH LEPROSY

Pub. L. 98-525, title VI, § 624(b), Oct. 19, 1984, 98 Stat. 2542, provided that: “A member of the uniformed services who is entitled on the day before the date of the enactment of this Act [Oct. 19, 1984] to receive incentive pay under section 301(a)(5) [subsec. (a)(5) of this section] (for the performance of duty involving intimate contact with persons afflicted with leprosy) shall continue to be entitled to such pay under such section as in effect on that day so long as the member continues (without a break) to be assigned to perform such duties on and after that day.”

#### EXECUTIVE ORDER NO. 10152

Ex. Ord. No. 10152, Aug. 17, 1950, 15 F.R. 5489, as amended by Ex. Ord. No. 10618, July 1, 1955, 20 F.R. 4671; Ex. Ord. No. 10681, Oct. 24, 1956, 21 F.R. 8129; Ex. Ord. No. 10739, Nov. 19, 1957, 22 F.R. 9205; Ex. Ord. No. 10892, Nov. 10, 1960, 25 F.R. 10731; Ex. Ord. No. 11120, Oct. 2, 1963, 28 F.R. 10631, which concerned regulations relating to incentive pay for performance of hazardous duty, was revoked by Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, formerly set out below.

#### EXECUTIVE ORDER NO. 11157

Ex. Ord. No. 11157, June 22, 1964, 29 F.R. 7973, as amended by Ex. Ord. No. 11242, Aug. 28, 1965, 30 F.R. 11205; Ex. Ord. No. 11253, Oct. 20, 1965, 30 F.R. 13509; Ex. Ord. No. 11259, Dec. 3, 1965, 30 F.R. 15057; Ex. Ord. No. 11292, Aug. 1, 1966, 31 F.R. 10447; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247; Ex. Ord. No. 11424, Aug. 29, 1968, 33 F.R. 12361; Ex. Ord. No. 11473, June 14, 1969, 34 F.R. 9485; Ex. Ord. No. 11511, Feb. 27, 1970, 35 F.R. 3877; Ex. Ord. No. 11591, Apr. 23, 1971, 36 F.R. 7833; Ex. Ord. No. 11716, Apr. 26, 1973, 38 F.R. 10621; Ex. Ord. No. 11728, July 12, 1973, 38 F.R. 18861; Ex. Ord. No. 11897, Jan. 13, 1976, 41 F.R. 2071; Ex. Ord. No. 11929, July 26, 1976, 41 F.R. 31159; Ex. Ord. No. 11939, Sept. 30, 1976, 41 F.R. 43705; Ex. Ord. No. 12094, Nov. 1, 1978, 43 F.R. 51379; Ex. Ord. No. 12243, Oct. 3, 1980, 45 F.R. 66439; Ex. Ord. No. 12274, Jan. 16, 1981, 46 F.R. 5855; Ex. Ord. No. 12337, Jan. 11, 1982, 47 F.R. 1367, eff. Sept. 15, 1981; Ex. Ord. No. 12380, Aug. 18, 1982, 47 F.R. 36605, eff. Jan. 1, 1981; Ex. Ord. No. 12394, Nov. 18, 1982, 47 F.R. 52405, eff. Oct. 1, 1981; Ex. Ord. No. 12420, May 11, 1983, 48 F.R. 21525, eff. Oct. 1, 1981; Ex. Ord. No. 12488, Sept. 27, 1984, 49 F.R. 38525, eff. Oct. 1, 1983; Ex. Ord. No. 12494, Dec. 6, 1984, 49 F.R. 48175; Ex. Ord. No. 12541, Dec. 30, 1985, 51 F.R. 585, eff. Jan. 1, 1986; Ex. Ord. No. 12573, Nov. 6, 1986, 51 F.R. 40954, eff. in part Oct. 1, 1985; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617; Ex. Ord. No. 12762, June 4, 1991, 56 F.R. 25993; Ex. Ord. No. 12935, Oct. 28, 1994, 59 F.R. 54511, which related to regulations regarding incentive pay for hazardous duty, special pay for sea duty and duty at certain other locations, and basic allowances for subsistence and quarters, was revoked by Ex. Ord. No. 13294, § 2, Mar. 28, 2003, 68 F.R. 15919, set out below.

#### EX. ORD. NO. 13294. REGULATIONS RELATING TO HAZARDOUS DUTY INCENTIVE PAY, AVIATION CAREER INCENTIVE PAY, AND SUBMARINE DUTY INCENTIVE PAY

Ex. Ord. No. 13294, Mar. 28, 2003, 68 F.R. 15919, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 301, 301a, and 301c of title 37, United States Code, and section 301 of title 3, United States Code, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense, the Secretary of Commerce, the Secretary of Health and Human Services, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, with respect to members of the uniformed services under their respective jurisdictions, are hereby designated and empowered to exercise, without approval, ratification, or other action by the President, the authority vested in the President by sections 301, 301a, and 301c of title 37, United States Code. The Secretaries shall consult each other in the exercise of such authority to ensure similar treatment for similarly situated members of the uniformed services unless the needs of their respective uniformed services require differing treatment.

SEC. 2. Executive Order 11157 of June 22, 1964, as amended, and Executive Order 11800 of August 17, 1974, as amended, are hereby revoked.

SEC. 3. This order is not intended to create, nor does it create, any right, benefit, or privilege, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, employees, or any other person.

GEORGE W. BUSH.

### § 301a. Incentive pay: aviation career

(a)(1) Subject to regulations prescribed by the President, a member of a uniformed service who is entitled to basic pay is also entitled to aviation career incentive pay in the amount set forth in subsection (b) for the frequent and regular performance of operational or proficiency flying duty required by orders.

(2) Aviation career incentive pay shall be restricted to regular and reserve officers who hold, or are in training leading to, an aeronautical rating or designation and who engage and remain in aviation service on a career basis.

(3) Under regulations prescribed by the Secretary of Defense, the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, or the Secretary of Commerce and the Secretary of Health and Human Services with respect to members under their respective jurisdiction, an officer (except a flight surgeon or other medical officer) who is entitled to basic pay, holds an aeronautical rating or designation, and is qualified for aviation service under regulations prescribed by the Secretary concerned, is entitled to continuous monthly incentive pay in the amount set forth in subsection (b) that is applicable to him. A flight surgeon or other medical officer who is entitled to basic pay, holds an aeronautical rating or designation, and is qualified for aviation service under regulations prescribed by the Secretary concerned, is not entitled to continuous monthly incentive pay but is entitled to monthly incentive pay in the amounts set forth in subsection (b) for the frequent and regular performance of operational flying duty.

(4) To be entitled to continuous monthly incentive pay, an officer must perform the prescribed operational flying duties (including flight training but excluding proficiency flying) for 8 of the first 12, and 12 of the first 18 years of the aviation service of the officer. However, if

an officer performs the prescribed operational flying duties (including flight training but excluding proficiency flying) for at least 10 but less than 12 of the first 18 years of the aviation service of the officer, the officer will be entitled to continuous monthly incentive pay for the first 22 years of aviation service of the officer. Entitlement to continuous monthly incentive pay ceases for an officer (other than a warrant officer) upon completion of 25 years of aviation service, but such an officer in a pay grade below pay grade O-7 remains entitled to monthly incentive pay under subsection (b)(1) for the performance of operational flying duty.

(5) If upon completion of either 12 or 18 years of aviation service it is determined that an officer has failed to perform the minimum prescribed operational flying duty requirements during the prescribed periods of time, his entitlement to continuous monthly incentive pay ceases. For the needs of the service, the Secretary concerned may permit, on a case by case basis, an officer to continue to receive continuous monthly incentive pay despite the failure of the officer to perform the prescribed operational flying duty requirements during the prescribed periods of time so long as the officer has performed those requirements for not less than 6 years of aviation service. The Secretary concerned may not delegate the authority in the preceding sentence to permit the payment of incentive pay under this subsection. If at the completion of 12 years of aviation service entitlement to continuous monthly incentive pay ceases, entitlement to that pay may again commence at the completion of 18 years of aviation service upon completion of the minimum operational flying duty requirements, such pay to continue for a period of time as prescribed in accordance with this section. However, if entitlement to continuous monthly incentive pay ceases in the case of any officer at the completion of either 12 or 18 years of aviation service, such officer remains entitled to monthly incentive pay for the performance of subsequent operational or proficiency flying duties up to the maximum period of time prescribed in accordance with this section.

(6) In this section:

(A) The term "aviation service" means service performed by an officer (except a flight surgeon or other medical officer) while holding an aeronautical rating or designation or while in training to receive an aeronautical rating or designation.

(B) The term "operational flying duty" means flying performed under competent orders by rated or designated members while serving in assignments in which basic flying skills normally are maintained in the performance of assigned duties as determined by the Secretary concerned, and flying performed by members in training that leads to the award of an aeronautical rating or designation.

(C) The term "proficiency flying duty" means flying performed under competent orders by rated or designated members while serving in assignments in which such skills would normally not be maintained in the performance of assigned duties.