

(2) Such regulations shall establish procedures to exclude from consideration by the board any warrant officer who has been approved for voluntary retirement, or who is to be mandatorily retired under any other provision of law, during the fiscal year in which the board is convened or during the following fiscal year. An officer not considered by a selection board convened under section 573(c) of this title under such regulations because the officer has been approved for voluntary retirement shall be retired on the date approved for the retirement of such officer as of the convening date of such selection board unless the Secretary concerned approves a modification of such date in order to prevent a personal hardship for the officer or for other humanitarian reasons.

(e) The Secretary concerned may defer for not more than 90 days the retirement of an officer otherwise approved for early retirement under this section in order to prevent a personal hardship to the officer or for other humanitarian reasons. Any such deferral shall be made on a case-by-case basis considering the circumstances of the case of the particular officer concerned. The authority of the Secretary to grant such a deferral may not be delegated.

(Added Pub. L. 102-190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1500; amended Pub. L. 102-484, div. A, title X, §1052(5), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 103-337, div. A, title V, §541(b)(6), Oct. 5, 1994, 108 Stat. 2765; Pub. L. 104-106, div. A, title V, §504(a), Feb. 10, 1996, 110 Stat. 295.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-106 added subsec. (e).
 1994—Subsec. (a). Pub. L. 103-337 struck out “in the Army, Navy, Air Force, or Marine Corps” after “A regular warrant officer”.
 1992—Subsec. (d)(2). Pub. L. 102-484 substituted “board” for “Board” in two places in first sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103-337, set out as a note under section 571 of this title.

§ 582. Warrant officer active-duty list: exclusions

Warrant officers in the following categories are not subject to this chapter:

- (1) Reserve warrant officers—
 - (A) on active duty as authorized under section 115(a)(1)(B) or 115(b)(1) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title; or
 - (B) on full-time National Guard duty.
- (2) Retired warrant officers on active duty (other than retired warrant officers who were recalled to active duty before February 1, 1992, and have served continuously on active duty since that date).
- (3) Students enrolled in the Army Physician's Assistant Program.

(Added Pub. L. 102-190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1500; amended Pub. L. 103-337, div. A, title V, §501(d), Oct. 5, 1994, 108 Stat. 2748; Pub. L. 104-106, div. A, title XV, §1501(c)(5), Feb. 10, 1996, 110 Stat. 498; Pub. L.

108-375, div. A, title IV, §416(i), Oct. 28, 2004, 118 Stat. 1869.)

AMENDMENTS

2004—Par. (1). Pub. L. 108-375 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Reserve warrant officers—

- “(A) on active duty for training;
- “(B) on active duty under section 12301(d) of this title in connection with organizing, administering, recruiting, instructing, or training the reserve components;
- “(C) on active duty to pursue special work;
- “(D) ordered to active duty under section 12304 of this title; or
- “(E) on full-time National Guard duty.”

1996—Par. (1)(B). Pub. L. 104-106 substituted “section 12301(d)” for “section 672(d)”.

Par. (1)(D). Pub. L. 104-106 substituted “section 12304” for “section 673b”.

1994—Par. (2). Pub. L. 103-337 inserted before period at end “(other than retired warrant officers who were recalled to active duty before February 1, 1992, and have served continuously on active duty since that date)”.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1501(c) of Pub. L. 104-106 provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as originally enacted.

§ 583. Definitions

In this chapter:

(1) The term “promotion zone” means a promotion eligibility category consisting of officers on a warrant officer active-duty list in the same grade (or the same grade and competitive category) who—

- (A) in the case of grades below chief warrant officer, W-5, have neither (i) failed of selection for promotion to the next higher grade, nor (ii) been removed from a list of warrant officers recommended for promotion to that grade (other than after having been placed on that list after a selection from below the promotion zone); and
- (B) are senior to the warrant officer designated by the Secretary concerned to be the junior warrant officer in the promotion zone eligible for promotion to the next higher grade.

(2) The term “warrant officers above the promotion zone” means a group of officers on a warrant officer active-duty list in the same grade (or the same grade and competitive category) who—

- (A) are eligible for consideration for promotion to the next higher grade;
- (B) are in the same grade as warrant officers in the promotion zone; and
- (C) are senior to the senior warrant officer in the promotion zone.

(3) The term “warrant officers below the promotion zone” means a group of officers on a warrant officer active-duty list in the same grade (or the same grade and competitive category) who—

- (A) are eligible for consideration for promotion to the next higher grade;
- (B) are in the same grade as warrant officers in the promotion zone; and
- (C) are junior to the junior warrant officer in the promotion zone.

(4) The active-duty list referred to in section 573(b) of this title includes the active-duty promotion list established by section 41a of title 14.

(Added Pub. L. 102-190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1501; amended Pub. L. 103-337, div. A, title V, §541(f)(7), Oct. 5, 1994, 108 Stat. 2767.)

AMENDMENTS

1994—Par. (4). Pub. L. 103-337 added par. (4).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103-337, set out as a note under section 571 of this title.

CHAPTER 34—APPOINTMENTS AS RESERVE OFFICERS

Sec. 591. Reference to chapters 1205 and 1207.

AMENDMENTS

1994—Pub. L. 103-337, div. A, title XVI, §1662(d)(3), Oct. 5, 1994, 108 Stat. 2991, amended analysis generally, substituting item 591 for former items 591 to 600a.

1992—Pub. L. 102-484, div. A, title V, §515(b), Oct. 23, 1992, 106 Stat. 2407, added item 596.

1986—Pub. L. 99-661, div. A, title V, §508(d)(1)(B), Nov. 14, 1986, 100 Stat. 3867, added item 600a.

1980—Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2849, substituted “34” for “35” as chapter number.

1958—Pub. L. 85-861, §1(11), Sept. 2, 1958, 72 Stat. 1440, added item 592 and struck out item 596 “Officers: promotion”.

§ 591. Reference to chapters 1205 and 1207

Provisions of law relating to appointments of reserve officers other than warrant officers are set forth in chapter 1205 of this title (beginning with section 12201). Provisions of law relating to appointments and promotion of reserve warrant officers are set forth in chapter 1207 (beginning with section 12241).

(Added Pub. L. 103-337, div. A, title XVI, §1662(d)(3), Oct. 5, 1994, 108 Stat. 2991.)

PRIOR PROVISIONS

Prior sections 591 to 594, 595, and 596 were renumbered sections 12201 to 12204, 12208, and 12205 of this title, respectively.

Another prior section 596, act Aug. 10, 1956, ch. 1041, 70A Stat. 25, related to promotion of officers in the Reserve components, prior to repeal by Pub. L. 85-861, §36B(2), Sept. 2, 1958, 72 Stat. 1570.

Prior sections 596a, 596b, 597 to 599, 600, and 600a were renumbered sections 12206, 12207, 12241 to 12243, 12209, and 12210 of this title, respectively.

EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

CHAPTER 35—TEMPORARY APPOINTMENTS IN OFFICER GRADES

Sec. 601. Positions of importance and responsibility: generals and lieutenant generals; admirals and vice admirals.

[602. Repealed.]

603. Appointments in time of war or national emergency.

Sec. 604. Senior joint officer positions: recommendations to the Secretary of Defense.

AMENDMENTS

1994—Pub. L. 103-337, div. A, title IV, §405(c)(2), Oct. 5, 1994, 108 Stat. 2745, added item 604.

1991—Pub. L. 102-190, div. A, title XI, §1113(d)(1)(B), Dec. 5, 1991, 105 Stat. 1502, struck out item 602 “Warrant officers: temporary promotions” and substituted “Appointments in time of war or national emergency” for “Commissioned officer grades: time of war or national emergency” in item 603.

§ 601. Positions of importance and responsibility: generals and lieutenant generals; admirals and vice admirals

(a) The President may designate positions of importance and responsibility to carry the grade of general or admiral or lieutenant general or vice admiral. The President may assign to any such position an officer of the Army, Navy, Air Force, or Marine Corps who is serving on active duty in any grade above colonel or, in the case of an officer of the Navy, any grade above captain. An officer assigned to any such position has the grade specified for that position if he is appointed to that grade by the President, by and with the advice and consent of the Senate. Except as provided in subsection (b), the appointment of an officer to a grade under this section for service in a position of importance and responsibility ends on the date of the termination of the assignment of the officer to that position.

(b) An officer who is appointed to the grade of general, admiral, lieutenant general, or vice admiral for service in a position designated under subsection (a) or by law to carry that grade shall continue to hold that grade—

(1) while serving in that position;

(2) while under orders transferring him to another position designated under subsection (a) or by law to carry one of those grades, beginning on the day his assignment to the first position is terminated and ending on the day before the day on which he assumes the second position;

(3) while hospitalized, beginning on the day of the hospitalization and ending on the day he is discharged from the hospital, but not for more than 180 days;

(4) at the discretion of the Secretary of Defense, while the officer is awaiting orders after being relieved from the position designated under subsection (a) or by law to carry one of those grades, but not for more than 60 days beginning on the day the officer is relieved from the position, unless, during such period, the officer is placed under orders to another position designated under subsection (a) or by law to carry one of those grades, in which case paragraph (2) will also apply to the officer; and

(5) while awaiting retirement, beginning on the day he is relieved from the position designated under subsection (a) or by law to carry one of those grades and ending on the day before his retirement, but not for more than 60 days.

(c)(1) An appointment of an officer under subsection (a) does not vacate the permanent grade held by the officer.

(2) An officer serving in a grade above major general or rear admiral who holds the perma-