

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 con-

cerned, 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 included 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.”

EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section 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.

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.

EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section 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.

§ 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.)

EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section 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.

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

Sec.	
627.	Failure of selection for promotion.
628.	Special selection boards.
629.	Removal from a list of officers recommended for promotion.
630.	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).
631.	Effect of failure of selection for promotion: first lieutenants and lieutenants (junior grade).
632.	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.

Sec.	
633.	Retirement for years of service: regular lieutenant colonels and commanders.
634.	Retirement for years of service: regular colonels and Navy captains.
635.	Retirement for years of service: regular brigadier generals and rear admirals (lower half).
636.	Retirement for years of service: regular officers in grades above brigadier general and rear admiral (lower half).

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, captain who is in or above the promotion zone established for his grade and competitive category under section 623 of this title and is considered but not selected for promotion by a selection board convened under section 611(a) of this title shall be considered to have failed of selection for promotion.

(Added Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2859.)

EFFECTIVE DATE

Section 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.

§ 628. Special selection boards

(a) PERSONS NOT CONSIDERED BY PROMOTION BOARDS DUE TO ADMINISTRATIVE ERROR.—(1) If the Secretary of the military department concerned determines that because of administrative error a person who should have been considered for selection for promotion from in or above the promotion zone by a promotion board was not so considered, the Secretary shall convene a special selection board under this sub-