

ties vested in the President are hereby invoked to the full extent provided by the terms thereof: section 527 of title 10, United States Code, to suspend the operation of sections 523, 525, and 526 of that title, regarding officer and warrant officer strength and distribution; and sections 123, 123a, and 12006 of title 10, United States Code, to suspend certain laws relating to promotion, involuntary retirement, and separation of commissioned officers; end strength limitations; and Reserve component officer strength limitations.

SEC. 3. To allow for the orderly administration of personnel within the armed forces, the authorities vested in the President by sections 331, 359, and 367 of title 14, United States Code, relating to the authority to order to active duty certain officers and enlisted members of the Coast Guard and to detain enlisted members, are invoked to the full extent provided by the terms thereof.

SEC. 4. The Secretary of Defense is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in the President by sections 123, 123a, 527, and 12006 of title 10, United States Code, as invoked by sections 2 and 3 of this order.

SEC. 5. The Secretary of Homeland Security is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in sections 331, 359, and 367 of title 14, United States Code, when the Coast Guard is not serving as part of the Navy, as invoked by section 2 of this order, to recall any regular officer or enlisted member on the retired list to active duty and to detain any enlisted member beyond the term of his or her enlistment. The Secretary of Homeland Security is further designated and empowered, without the approval, ratification or any other action by the President, to exercise the authority vested in the President by sections 123 and 123a of title 10, United States Code, and sections 149 (detail members to assist foreign governments), 275(a) (suspension of provisions on selection, promotion, or involuntary separation of officers), and 722 (administration of reserve forces) of title 14, United States Code, as invoked by section 2 of Executive Order 13223.

SEC. 6. The authority delegated by this order to the Secretary of Defense and the Secretary of Homeland Security may be redelegated and further subdelegated to civilian subordinates who are appointed to their offices by the President, by and with the advice and consent of the Senate.

SEC. 7. Based upon my determination under 10 U.S.C. 2201(c) that it is necessary to increase (subject to limits imposed by law) the number of members of the armed forces on active duty for the Department of Defense beyond the number for which funds are provided in the appropriation Act for the Department of Defense, which, by virtue of 14 U.S.C. 652, applies to the Department of Homeland Security with respect to the Coast Guard, the Secretary of Defense and the Secretary of Homeland Security may provide for the cost of such additional members under their respective jurisdictions as an excepted expense under [former] section 11(a) of title 41, United States Code [see 41 U.S.C. 6301(a), (b)].

SEC. 8. This order is intended only to improve the internal management of the executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

SEC. 9. This order is effective immediately and shall be promptly transmitted to the Congress and published in the Federal Register.

§ 12303. Ready Reserve: members not assigned to, or participating satisfactorily in, units

(a) Notwithstanding any other provision of law, the President may order to active duty any member of the Ready Reserve of an armed force who—

- (1) is not assigned to, or participating satisfactorily in, a unit of the Ready Reserve;

(2) has not fulfilled his statutory reserve obligation; and

(3) has not served on active duty for a total of 24 months.

(b) A member who is ordered to active duty under this section may be required to serve on active duty until his total service on active duty equals 24 months. If his enlistment or other period of military service would expire before he has served the required period under this section, it may be extended until he has served the required period.

(c) To achieve fair treatment among members of the Ready Reserve who are being considered for active duty under this section, appropriate consideration shall be given to—

(1) family responsibilities; and

(2) employment necessary to maintain the national health, safety, or interest.

(Added Pub. L. 90-40, §6(1), June 30, 1967, 81 Stat. 105, §673a; renumbered §12303, Pub. L. 103-337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 673a of this title as this section.

EX. ORD. NO. 11366. AUTHORIZATION TO ORDER READY RESERVE TO ACTIVE DUTY; EXTENSION OF MILITARY SERVICE

Ex. Ord. No. 11366, Aug. 4, 1967, 32 F.R. 11411, as amended by Ex. Ord. No. 13286, §64, Feb. 28, 2003, 68 F.R. 10629, provided:

By virtue of the authority vested in me by section 673a [now 12303] of title 10 of the United States Code, and by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. (a) The Secretary of Defense is hereby authorized and empowered to exercise the authority vested in the President by section 673a [now 12303] of title 10 of the United States Code, to order to active duty any member of the Ready Reserve of an armed force (except the Coast Guard when not operating as a service in the Navy) who—

(1) is not assigned to, or participating satisfactorily in, a unit of the Ready Reserve;

(2) has not fulfilled his statutory reserve obligation; and

(3) has not served on active duty for a total of 24 months.

(b) In pursuance of the provisions of section 673a [now 12303] of title 10 of the United States Code, the Secretary of Defense is hereby authorized to require a member ordered to active duty under the authority of this Order to serve on active duty until his total service on active duty equals 24 months. If the enlistment or period of military service of a member of the Ready Reserve ordered to active duty under this authority would expire before he has served the required period of active duty prescribed herein, his enlistment or period of military service may be extended until he has served the required period.

(c) In pursuance of the provisions of section 673a [now 12303] of title 10 of the United States Code, and in order to achieve fair treatment among members of the Ready Reserve who are being considered for active duty under this authority, appropriate consideration shall be given to—

(1) family responsibilities; and

(2) employment necessary to maintain the national health, safety, or interest.

SEC. 2. The Secretary of Homeland Security is hereby authorized and empowered to exercise the authority

vested in the President by section 673a [now 12303] of the title 10 of the United States Code, with respect to any member of the Ready Reserve of the Coast Guard when it is not operating as a service in the Navy, under the same conditions as such authority may be exercised by the Secretary of Defense under this Order with respect to any member of the Ready Reserve of any other armed force.

SEC. 3. (a) The Secretary of Defense may designate any of the Secretaries of the military departments of the Department of Defense to exercise the authority vested in him by section 1 of this Order.

(b) The Secretary of Homeland Security may designate the Commandant of the United States Coast Guard to exercise the authority vested in him by section 2 of this Order.

SEC. 4. Executive Order No. 11327 of February 15, 1967, is superseded except with respect to members of the Ready Reserve ordered to active duty under the authority of that Order.

EX. ORD. NO. 11406. ASSIGNING AUTHORITY TO ORDER
READY RESERVE TO ACTIVE DUTY

Ex. Ord. No. 11406, Apr. 10, 1968, 33 F.R. 5735, authorized Secretary of Defense and, when designated by him, any of Secretaries of military departments of Department of Defense to exercise authority vested in President until June 30, 1968 by paragraph (e) of title I of the Department of Defense Appropriation Act, 1967 (80 Stat. 981) to order any unit in the Ready Reserve to active duty for a period not to exceed 24 months.

§ 12304. Selected Reserve and certain Individual Ready Reserve members; order to active duty other than during war or national emergency

(a) AUTHORITY.—Notwithstanding the provisions of section 12302(a) or any other provision of law, when the President determines that it is necessary to augment the active forces for any named operational mission or that it is necessary to provide assistance referred to in subsection (b), he may authorize the Secretary of Defense and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, without the consent of the members concerned, to order any unit, and any member not assigned to a unit organized to serve as a unit of the Selected Reserve (as defined in section 10143(a) of this title), or any member in the Individual Ready Reserve mobilization category and designated as essential under regulations prescribed by the Secretary concerned, under their respective jurisdictions, to active duty for not more than 365 consecutive days.

(b) SUPPORT FOR RESPONSES TO CERTAIN EMERGENCIES.—The authority under subsection (a) includes authority to order a unit or member to active duty to provide assistance in responding to an emergency involving—

(1) a use or threatened use of a weapon of mass destruction; or

(2) a terrorist attack or threatened terrorist attack in the United States that results, or could result, in significant loss of life or property.

(c) LIMITATIONS.—(1) No unit or member of a reserve component may be ordered to active duty under this section to perform any of the functions authorized by chapter 15 or section 12406 of this title or, except as provided in subsection (b), to provide assistance to either the

Federal Government or a State in time of a serious natural or manmade disaster, accident, or catastrophe.

(2) Not more than 200,000 members of the Selected Reserve and the Individual Ready Reserve may be on active duty under this section at any one time, of whom not more than 30,000 may be members of the Individual Ready Reserve.

(3) No unit or member of a reserve component may be ordered to active duty under this section to provide assistance referred to in subsection (b) unless the President determines that the requirements for responding to an emergency referred to in that subsection have exceeded, or will exceed, the response capabilities of local, State, and Federal civilian agencies.

(d) EXCLUSION FROM STRENGTH LIMITATIONS.—Members ordered to active duty under this section shall not be counted in computing authorized strength in members on active duty or members in grade under this title or any other law.

(e) POLICIES AND PROCEDURES.—The Secretary of Defense and the Secretary of Homeland Security shall prescribe such policies and procedures for the armed forces under their respective jurisdictions as they consider necessary to carry out this section.

(f) NOTIFICATION OF CONGRESS.—Whenever the President authorizes the Secretary of Defense or the Secretary of Homeland Security to order any unit or member of the Selected Reserve or Individual Ready Reserve to active duty, under the authority of subsection (a), he shall, within 24 hours after exercising such authority, submit to Congress a report, in writing, setting forth the circumstances necessitating the action taken under this section and describing the anticipated use of these units or members.

(g) TERMINATION OF DUTY.—Whenever any unit of the Selected Reserve or any member of the Selected Reserve not assigned to a unit organized to serve as a unit, or any member of the Individual Ready Reserve, is ordered to active duty under authority of subsection (a), the service of all units or members so ordered to active duty may be terminated by—

(1) order of the President, or

(2) law.

(h) RELATIONSHIP TO WAR POWERS RESOLUTION.—Nothing contained in this section shall be construed as amending or limiting the application of the provisions of the War Powers Resolution (50 U.S.C. 1541 et seq.).

(i) CONSIDERATIONS FOR INVOLUNTARY ORDER TO ACTIVE DUTY.—(1) In determining which members of the Selected Reserve and Individual Ready Reserve will be ordered to duty without their consent under this section, appropriate consideration shall be given to—

(A) the length and nature of previous service, to assure such sharing of exposure to hazards as the national security and military requirements will reasonably allow;

(B) the frequency of assignments during service career;

(C) family responsibilities; and

(D) employment necessary to maintain the national health, safety, or interest.

(2) The Secretary of Defense shall prescribe such policies and procedures as the Secretary considers necessary to carry out this subsection.