

(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 13 or section 12406 of this title or, except as provided in sub-

section (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.

(j) DEFINITIONS.—In this section:

(1) The term “Individual Ready Reserve mobilization category” means, in the case of any reserve component, the category of the Individual Ready Reserve described in section 10144(b) of this title.

(2) The term “weapon of mass destruction” has the meaning given that term in section 1403 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).

(Added Pub. L. 94-286, §1, May 14, 1976, 90 Stat. 517, §673b; amended Pub. L. 96-584, §2, Dec. 23, 1980, 94 Stat. 3377; Pub. L. 97-295, §1(9), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 99-661, div. A, title V, §521, Nov. 14, 1986, 100 Stat. 3870; renumbered §12304 and amended, Pub. L. 103-337, div. A, title V, §511(a), title XVI, §§1662(e)(2), 1675(c)(2), Oct. 5, 1994, 108 Stat. 2752, 2992, 3017; Pub. L. 105-85, div. A, title V, §511(b)-(e)(1), Nov. 18, 1997, 111 Stat. 1728, 1729; Pub. L. 105-261, div. A, title V, §511(a), Oct. 17, 1998, 112 Stat. 2005; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107-314, div. A, title V, §514(a), Dec. 2, 2002, 116 Stat. 2539; Pub. L. 108-136, div. A, title V, §515, Nov. 24, 2003, 117 Stat. 1460; Pub. L. 108-375, div. A, title V, §514(c), Oct. 28, 2004, 118 Stat. 1883; Pub. L. 109-364, div. A, title V, §522, title X, §1076(c), Oct. 17, 2006, 120 Stat. 2192, 2406; Pub. L. 110-181, div. A, title X, §§1063(a)(15), 1068(c), Jan. 28, 2008, 122 Stat. 322, 326; Pub. L. 112-81, div. A, title V, §516(b), Dec. 31, 2011, 125 Stat. 1397; Pub. L. 115-232, div. A, title XII, §1204(a)(5), Aug. 13, 2018, 132 Stat. 2017.)

#### REFERENCES IN TEXT

The War Powers Resolution, referred to in subsec. (h), is Pub. L. 93-148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§1541 et seq.) of Title 50, War and National Defense. For complete classification of this Resolution to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

#### AMENDMENTS

2018—Subsec. (c)(1), Pub. L. 115-232 substituted “chapter 13” for “chapter 15”.

2011—Subsec. (a), Pub. L. 112-81 inserted “named” before “operational mission” and substituted “365 consecutive days” for “365 days”.

2008—Subsec. (a), Pub. L. 110-181, §1063(a)(15), struck out second period at end.

Subsec. (c)(1), Pub. L. 110-181, §1068(c), substituted “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),” for “Except to perform any of the functions authorized by chapter 15 or section 12406 of this title or by subsection (b), no unit or member of a reserve component may be ordered to active duty under this section”.

2006—Subsec. (a), Pub. L. 109-364, §522(a), substituted “365 days.” for “270 days”.

Subsec. (c)(1), Pub. L. 109-364, §1076(c), substituted “Except to perform any of the functions authorized by chapter 15 or section 12406 of this title or by subsection (b), no unit or member of a reserve component may be ordered to active duty under this section” for “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),”.

Subsecs. (i), (j), Pub. L. 109-364, §522(b), added subsec. (i) and redesignated former subsec. (i) as (j).

2004—Subsec. (a). Pub. L. 108-375 struck out “(other than for training)” after “active duty”.

2003—Subsec. (b)(2). Pub. L. 108-136, §515(1), substituted “significant” for “catastrophic”.

Subsec. (c)(3). Pub. L. 108-136, §515(2), added par. (3).  
2002—Subsec. (a). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

Subsec. (b). Pub. L. 107-314 substituted “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 catastrophic loss of life or property.”  
for “involving a use or threatened use of a weapon of mass destruction.”

Subsecs. (e), (f). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1998—Subsec. (a). Pub. L. 105-261, §511(a)(1)(A), (3)(A), inserted heading and inserted “or that it is necessary to provide assistance referred to in subsection (b)” after “operational mission” in text.

Subsec. (b). Pub. L. 105-261, §511(a)(1)(D), added subsec. (b). Former subsec. (b) redesignated subsec. (c)(1).

Subsec. (c). Pub. L. 105-261, §511(a)(1)(B), (C), redesignated subsec. (b) as par. (1) of subsec. (c), inserted subsec. heading, substituted “or, except as provided in subsection (b), to provide” for “, or to provide”, and redesignated former subsec. (c) as par. (2).

Subsecs. (d) to (h). Pub. L. 105-261, §511(a)(3)(B)–(F), inserted headings.

Subsec. (i). Pub. L. 105-261, §511(a)(2), amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: “For purposes of this section, the term ‘Individual Ready Reserve mobilization category’ means, in the case of any reserve component, the category of the Individual Ready Reserve described in section 10144(b) of this title.”

1997—Pub. L. 105-85, §511(e)(1), inserted “and certain Individual Ready Reserve members” after “Selected Reserve” in section catchline.

Subsec. (a). Pub. L. 105-85, §511(b), inserted “or any member in the Individual Ready Reserve mobilization category and designated as essential under regulations prescribed by the Secretary concerned,” after “of this title,”.

Subsec. (c). Pub. L. 105-85, §511(c), inserted “and the Individual Ready Reserve” after “Selected Reserve” and “, of whom not more than 30,000 may be members of the Individual Ready Reserve” before period at end.

Subsec. (f). Pub. L. 105-85, §511(d)(1), inserted “or Individual Ready Reserve” after “Selected Reserve”.

Subsec. (g). Pub. L. 105-85, §511(d)(2), inserted “, or any member of the Individual Ready Reserve,” after “to serve as a unit” in introductory provisions.

Subsec. (i). Pub. L. 105-85, §511(d)(3), added subsec. (i).  
1994—Pub. L. 103-337, §1662(e)(2), renumbered section 673b of this title as this section.

Subsec. (a). Pub. L. 103-337, §1675(c)(2)(A), (B), substituted “12302(a)” for “673(a)” and “10143(a)” for “268(b)”.

Pub. L. 103-337, §511(a)(1), substituted “270 days” for “90 days”.

Subsec. (b). Pub. L. 103-337, §1675(c)(2)(C), substituted “12406” for “3500 or 8500”.

Subsec. (i). Pub. L. 103-337, §511(a)(2), struck out subsec. (i) which read as follows: “When a unit of the Selected Reserve, or a member of the Selected Reserve not assigned to a unit organized to serve as a unit of the Selected Reserve, is ordered to active duty under this section and the President determines that an extension of the service of such unit or member on active duty is necessary in the interests of national security, he may authorize the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy to extend the period of such order to active duty for a period of not more than 90 additional days. Whenever the President exercises his authority under this subsection, he shall immediately notify Congress of such action and shall include in the notification a statement

of reasons for the action. Nothing in this subsection shall be construed as limiting the authorities to terminate the service of units or members ordered to active duty under this section under subsection (g).”

1986—Subsec. (b). Pub. L. 99-661, §521(c)(1), substituted “reserve component” for “Reserve component”.

Subsec. (c). Pub. L. 99-661, §521(a), substituted “200,000” for “100,000”.

Subsec. (e). Pub. L. 99-661, §521(c)(2), substituted “armed forces” for “Armed Forces”.

Subsec. (f). Pub. L. 99-661, §521(c)(3), substituted “Congress” for “the Speaker of the House of Representatives and to the President pro tempore of the Senate”.

Subsec. (g)(2). Pub. L. 99-661, §521(c)(4), substituted “law” for “a concurrent resolution of the Congress”.

Subsec. (i). Pub. L. 99-661, §521(b), added subsec. (i).  
1982—Subsec. (h). Pub. L. 97-295 inserted “(50 U.S.C. 1541 et seq.)” after “the War Powers Resolution”.

1980—Subsec. (c). Pub. L. 96-584 substituted “100,000” for “50,000”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by sections 1662(e)(2) and 1675(c)(2) of Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

#### ORDERS TO ACTIVE DUTY FOR SELECTED RESERVE COMBAT UNITS INVOLVED IN OPERATION DESERT SHIELD; EXTENSIONS OF TIME FOR FISCAL YEAR 1991

Pub. L. 101-511, title VIII, §8132, Nov. 5, 1990, 104 Stat. 1908, provided that, during fiscal year 1991, the President, in authorizing under this section the order to active duty of units and members of the Selected Reserve, could use that authority in the case of orders to active duty in support of operations in and around the Arabian Peninsula and Operation Desert Shield as if “180” were substituted for “90” in subsecs. (a) and (i) of this section.

#### EX. ORD. NO. 12727. ORDERING SELECTED RESERVE OF ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 12727, Aug. 22, 1990, 55 F.R. 35027, as amended by Ex. Ord. No. 13286, §39, Feb. 28, 2003, 68 F.R. 10626, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 673b [now 12304] of title 10 of the United States Code, I hereby determine that it is necessary to augment the active armed forces of the United States for the effective conduct of operational missions in and around the Arabian Peninsula. Further, under the stated authority, I hereby authorize the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when the latter is not operating as a service in the Department of the Navy, to order to active duty units and individual members not assigned to units, of the Selected Reserve.

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.

This order shall be published in the Federal Register and transmitted promptly to the Congress.

#### EX. ORD. NO. 12733. AUTHORIZING EXTENSION OF PERIOD OF ACTIVE DUTY OF PERSONNEL OF SELECTED RESERVE OF ARMED FORCES

Ex. Ord. No. 12733, Nov. 13, 1990, 55 F.R. 47837, as amended by Ex. Ord. No. 13286, §37, Feb. 28, 2003, 68 F.R. 10626, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 673b(i) [673b now 12304] of title 10 of the United States Code, I hereby determine that, in the interests of national security, extending the period of active duty is necessary for the following: units of the Selected Reserve, and members of the Selected Reserve not assigned to a unit organized to serve as a unit of the Selected Reserve, now serving on or hereafter ordered to active duty pursuant to section 673b(a) [now 12304(a)] of title 10 of the United States Code and Executive Order No. 12727 of August 22, 1990 [set out above]. Further, under the stated authority, I hereby authorize the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when the latter is not operating as a service in the Department of the Navy, to extend the period of active duty of such units and members of the Selected Reserve.

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.

This order shall be published in the Federal Register and transmitted promptly to the Congress.

EX. ORD. NO. 12927. ORDERING SELECTED RESERVE OF ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 12927, Sept. 15, 1994, 59 F.R. 47781, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 673b [now 12304] of title 10 of the United States Code, I hereby determine that it is necessary to augment the active armed forces of the United States for the effective conduct of operational missions to restore the civilian government in Haiti. Further, under the stated authority, I hereby authorize the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Department of the Navy, to order to active duty any units, and any individual members not assigned to a unit organized to serve as a unit, of the Selected Reserve.

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.

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

WILLIAM J. CLINTON.

EX. ORD. NO. 12982. ORDERING SELECTED RESERVE OF ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 12982, Dec. 8, 1995, 60 F.R. 63895, as amended by Ex. Ord. No. 13286, §21, Feb. 28, 2003, 68 F.R. 10624, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 12304 of title 10, United States Code, I hereby determine that it is necessary to augment the active armed forces of the United States for the effective conduct of operations in and around former Yugoslavia. Further, under the stated authority, I hereby 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 Department of the Navy, to order to active duty any units, and any individual members not assigned to a unit organized to serve as a unit, of the Selected Reserve.

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.

This order shall be published in the Federal Register and transmitted to the Congress.

EX. ORD. NO. 13076. ORDERING SELECTED RESERVE OF ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 13076, Feb. 24, 1998, 63 F.R. 9719, as amended by Ex. Ord. No. 13286, §17, Feb. 28, 2003, 68 F.R. 10623, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 12304 of title 10, United States Code, I hereby determine that it is necessary to augment the active armed forces of the United States for the effective conduct of operations in and around Southwest Asia. Further, under the stated authority, I hereby 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 Department of the Navy, to order to active duty any units, and any individual members not assigned to a unit organized to serve as a unit, of the Selected Reserve.

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.

EX. ORD. NO. 13120. ORDERING SELECTED RESERVE AND CERTAIN INDIVIDUAL READY RESERVE MEMBERS OF ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 13120, Apr. 27, 1999, 64 F.R. 23007, as amended by Ex. Ord. No. 13286, §14, Feb. 28, 2003, 68 F.R. 10623, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 12304 of title 10, United States Code, I hereby determine that it is necessary to augment the active armed forces of the United States for the effective conduct of operations in and around the former Yugoslavia related to the conflict in Kosovo. Further, under the stated authority, I hereby 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 Department of the Navy, under their respective jurisdictions, to order to active duty any units, and any individual members not assigned to a unit organized to serve as a unit, of the Selected Reserve, or any member in the Individual Ready Reserve mobilization category and designated as essential under regulations prescribed by the Secretary concerned, and to terminate the service of those units and members ordered to active duty.

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.

EX. ORD. NO. 13529. ORDERING THE SELECTED RESERVE AND CERTAIN INDIVIDUAL READY RESERVE MEMBERS OF THE ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 13529, Jan. 16, 2010, 75 F.R. 3331, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 12304 of title 10, United States Code, I hereby determine that it is necessary to augment the active Armed Forces of the United States for the effective conduct of operational missions, including those involving humanitarian assistance, related to relief efforts in Haiti necessitated by the earthquake on January 12, 2010. Further, under the stated authority, I hereby 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, under their respective jurisdictions, to order to active duty any units, and any individual members not assigned to a unit organized to

serve as a unit, of the Selected Reserve, or any member in the Individual Ready Reserve mobilization category and designated as essential under regulations prescribed by the Secretary concerned, and to terminate the service of those units and members ordered to active duty.

This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

EX. ORD. NO. 13680. ORDERING THE SELECTED RESERVE AND CERTAIN INDIVIDUAL READY RESERVE MEMBERS OF THE ARMED FORCES TO ACTIVE DUTY

Ex. Ord. No. 13680, Oct. 16, 2014, 79 F.R. 63287, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 121 and 12304 of title 10, United States Code, I hereby determine that it is necessary to augment the active Armed Forces of the United States for the effective conduct of Operation United Assistance, which is providing support to civilian-led humanitarian assistance and consequence management support related to the Ebola virus disease outbreak in West Africa. In furtherance of this operation, under the stated authority, I hereby 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, under their respective jurisdictions, to order to active duty any units, and any individual members not assigned to a unit organized to serve as a unit of the Selected Reserve, or any member in the Individual Ready Reserve mobilization category and designated as essential under regulations prescribed by the Secretary concerned, and to terminate the service of those units and members ordered to active duty.

This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

**§ 12304a. Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve: order to active duty to provide assistance in response to a major disaster or emergency**

(a) **AUTHORITY.**—When a Governor requests Federal assistance in responding to a major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), the Secretary of Defense may, without the consent of the member affected, order any unit, and any member not assigned to a unit organized to serve as a unit, of the Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve to active duty for a continuous period of not more than 120 days to respond to the Governor's request.

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

(c) **TERMINATION OF DUTY.**—Whenever any unit or member of the reserve components is ordered to active duty under this section, the service of all units or members so ordered to active duty may be terminated by order of the Secretary of Defense or law.

(Added Pub. L. 112–81, div. A, title V, § 515(a)(1), Dec. 31, 2011, 125 Stat. 1394.)

**§ 12304b. Selected Reserve: order to active duty for preplanned missions in support of the combatant commands**

(a) **AUTHORITY.**—When the Secretary of a military department determines that it is necessary to augment the active forces for a preplanned mission in support of a combatant command, the Secretary may, subject to subsection (b), order any unit of the Selected Reserve (as defined in section 10143(a) of this title), without the consent of the members, to active duty for not more than 365 consecutive days.

(b) **LIMITATIONS.**—(1) Units may be ordered to active duty under this section only if—

(A) the manpower and associated costs of such active duty are specifically included and identified in the defense budget materials for the fiscal year or years in which such units are anticipated to be ordered to active duty; and

(B) the budget information on such costs includes a description of the mission for which such units are anticipated to be ordered to active duty and the anticipated length of time of the order of such units to active duty on an involuntary basis.

(2) Not more than 60,000 members of the reserve components of the armed forces may be on active duty under this section at any one time.

(c) **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 total number of members in grade under this title or any other law.

(d) **NOTICE TO CONGRESS.**—Whenever the Secretary of a military department orders any unit of the Selected Reserve to active duty under subsection (a), such Secretary shall submit to Congress a report, in writing, setting forth the circumstances necessitating the action taken under this section and describing the anticipated use of such unit.

(e) **TERMINATION OF DUTY.**—Whenever any unit of the Selected Reserve is ordered to active duty under subsection (a), the service of all units so ordered to active duty may be terminated—

- (1) by order of the Secretary of the military department concerned; or
- (2) by law.

(f) **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.).

(g) **CONSIDERATIONS FOR INVOLUNTARY ORDER TO ACTIVE DUTY.**—In determining which units of the Selected Reserve will be ordered to duty without their consent under this section, appropriate consideration shall be given to—

- (1) the length and nature of previous service, to assure such sharing of exposure to hazards as national security and military requirements will reasonably allow;
- (2) the frequency of assignments during service career;
- (3) family responsibilities; and
- (4) employment necessary to maintain the national health, safety, or interest.