

pointed to that position in accordance with section 12505(a)(2) of this title, the grade of lieutenant general, and” in subpars. (A) and (B).

Subsec. (a)(3). Pub. L. 106-398, §1 [[div. A], title V, §507(e)(2)], added par. (3).

1999—Subsec. (a)(1)(A), (B). Pub. L. 106-65 inserted “or, if appointed to that position in accordance with section 12505(a)(2) of this title, the grade of lieutenant general,” after “major general”.

#### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-291, div. A, title V, §512(d), Dec. 19, 2014, 128 Stat. 3358, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to assignments to the National Guard Bureau under section 10506 of title 10, United States Code, that occur after the date of the enactment of this Act [Dec. 19, 2014].”

#### EFFECTIVE DATE OF 1999 AMENDMENT; APPLICABILITY TO INCUMBENTS

Amendment by Pub. L. 106-65 effective 60 days after Oct. 5, 1999, with special provision for an officer who is a covered position incumbent who is appointed under that amendment to the grade of lieutenant general or vice admiral, see section 554(g), (h) of Pub. L. 106-65, set out as a note under section 3038 of this title.

#### EFFECTIVE DATE

Section effective at end of 90-day period beginning on Oct. 5, 1994, see section 904(d) of Pub. L. 103-337, set out as a note under section 10501 of this title.

### § 10507. National Guard Bureau: assignment of officers of regular or reserve components

Except as provided in section 12402(b) of this title, the President may assign to duty in the National Guard Bureau as many regular or reserve officers of the Army or Air Force as he considers necessary.

(Added Pub. L. 103-337, div. A, title XVI, §1661(c)(1)(A), Oct. 5, 1994, 108 Stat. 2982; amended Pub. L. 104-106, div. A, title XV, §1501(b)(6), Feb. 10, 1996, 110 Stat. 496.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3541 and 8541 of this title, prior to repeal by Pub. L. 103-337, §1661(c)(2).

#### AMENDMENTS

1996—Pub. L. 104-106 substituted “12402(b)” for “124402(b)” and “Air Force” for “Air Forces”.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of this title.

#### 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.

### § 10508. National Guard Bureau: general provisions

(a) MANPOWER REQUIREMENTS OF NATIONAL GUARD BUREAU.—The manpower requirements of the National Guard Bureau as a joint activity of the Department of Defense shall be determined in accordance with regulations prescribed by the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff.

(b) PERSONNEL FOR FUNCTIONS OF NATIONAL GUARD BUREAU.—

(1) IN GENERAL.—The Chief of the National Guard Bureau may program for, appoint, employ, administer, detail, and assign persons under sections 2102, 2103, 2105, and 3101 of title 5, subchapter IV of chapter 53 of title 5, or section 328 of title 32, within the National Guard Bureau and the National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands to execute the functions of the National Guard Bureau and the missions of the National Guard, and missions as assigned by the Chief of the National Guard Bureau.

(2) ADMINISTRATION THROUGH ADJUTANTS GENERAL.—The Chief of the National Guard Bureau may designate the adjutants general referred to in section 314 of title 32 to appoint, employ, and administer the National Guard employees authorized by this subsection.

(3) ADMINISTRATIVE ACTIONS.—Notwithstanding the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.) and under regulations prescribed by the Chief of the National Guard Bureau, all personnel actions or conditions of employment, including adverse actions under title 5, pertaining to a person appointed, employed, or administered by an adjutant general under this subsection shall be accomplished by the adjutant general of the jurisdiction concerned. For purposes of any administrative complaint, grievance, claim, or action arising from, or relating to, such a personnel action or condition of employment:

(A) The adjutant general of the jurisdiction concerned shall be considered the head of the agency and the National Guard of the jurisdiction concerned shall be considered the employing agency of the individual and the sole defendant or respondent in any administrative action.

(B) The National Guard of the jurisdiction concerned shall defend any administrative complaint, grievance, claim, or action, and shall promptly implement all aspects of any final administrative order, judgment, or decision.

(C) In any civil action or proceeding brought in any court arising from an action under this section, the United States shall be the sole defendant or respondent.

(D) The Attorney General of the United States shall defend the United States in actions arising under this section described in subparagraph (C).

(E) Any settlement, judgment, or costs arising from an action described in subparagraph (A) or (C) shall be paid from appropriated funds allocated to the National Guard of the jurisdiction concerned.

(Added Pub. L. 110-181, div. A, title XVIII, §1812(b)(1), Jan. 28, 2008, 122 Stat. 497; amended Pub. L. 114-328, div. A, title IX, §932, Dec. 23, 2016, 130 Stat. 2363; Pub. L. 115-232, div. A, title V, §517, Aug. 13, 2018, 132 Stat. 1754.)

#### REFERENCES IN TEXT

The Intergovernmental Personnel Act of 1970, referred to in subsec. (b)(3), is Pub. L. 91-648, Jan. 5, 1971, 84 Stat. 1909, which is classified principally to chapter