

Editorial Notes**PRIOR PROVISIONS**

Provisions similar to those in this section were contained in section 5901 of this title, prior to repeal by Pub. L. 103-337, §1629(b)(2).

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103-337, set out as a note under section 10001 of this title.

§ 14308. Promotions: how made

(a) **PROMOTION LIST.**—When the report of a selection board convened under section 14101(a) or 14502 of this title is approved by the President, the Secretary of the military department concerned shall place the names of all officers selected for promotion within a competitive category on a single list for that competitive category, to be known as a promotion list, in the order of seniority of those officers on the reserve active-status list or based on particular merit, as determined by the promotion board. A promotion list is considered to be established under this section as of the date of the approval of the report of the selection board under the preceding sentence.

(b) **PROMOTION; HOW MADE; ORDER.**—(1) Officers on a promotion list for a competitive category shall be promoted in the manner specified in section 12203 of this title.

(2) Officers on a promotion list for a competitive category shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary of the military department concerned. Except as provided in section 14311, 14312, or 14502(e) of this title or in subsection (d) or (e), promotions shall be made in the order in which the names of officers appear on the promotion list and after officers previously selected for promotion in that competitive category have been promoted.

(3) Officers to be promoted to the grade of first lieutenant or lieutenant (junior grade) shall be promoted in accordance with regulations prescribed by the Secretary of the military department concerned.

(4)(A) Officers in the permanent grade of first lieutenant or, in the case of the Navy, lieutenant (junior grade) who are on an approved all-fully-qualified-officers list shall be promoted to the next higher grade in accordance with regulations prescribed by the Secretary concerned. Such promotions shall be in the manner specified in section 12203 of this title.

(B) An all-fully-qualified-officers list shall be considered to be approved for purposes of subparagraph (A) when the list is approved by the President. When so approved, such a list shall be treated in the same manner as a promotion list under this chapter and chapter 1403 of this title.

(C) The Secretary of a military department may make a recommendation to the President for approval of an all-fully-qualified-officers list only when the Secretary determines that all officers on the list are needed in the next higher grade to accomplish mission objectives.

(D) For purposes of this paragraph, an all-fully-qualified-officers list is a list of all officers

on the reserve active-status list in a grade who the Secretary of the military department concerned determines—

(i) are fully qualified for promotion to the next higher grade; and

(ii) would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 14101(a) of this title upon the convening of such a board.

(E) If the Secretary of the military department concerned determines that one or more officers or former officers were not placed on an all-fully-qualified-list under this paragraph because of administrative error, the Secretary may prepare a supplemental all-fully-qualified-officers list containing the names of any such officers for approval in accordance with this paragraph.

(c) **DATE OF RANK.**—(1) The date of rank of an officer appointed to a higher grade under this section is determined under section 741(d)(2) of this title.

(2) The date of rank of an officer appointed to a higher grade under this section may be adjusted in the same manner as an adjustment may be made under section 741(d)(4) of this title in the date of rank of an officer appointed to a higher grade under section 624(a) of this title. In any use of the authority under the preceding sentence, subparagraph (C)(ii) of such section shall be applied by substituting “reserve active-status list” for “active-duty list”.

(3) The Secretary concerned may adjust the date of rank of an officer whose name is placed on a reserve active-status promotion list pursuant to subsection (e) or (f) of section 624 of this title.

(4) Except as provided in paragraph (2) or as otherwise specifically authorized by law, a reserve officer is not entitled to additional pay or allowances if the effective date of the officer's promotion is adjusted to reflect a date earlier than the actual date of the officer's promotion.

(d) **OFFICERS WITH RUNNING MATES.**—An officer to whom a running mate system applies under section 14306 of this title and who is selected for promotion is eligible for promotion to the grade for which selected when the officer who is that officer's running mate becomes eligible for promotion under chapter 36 of this title. The effective date of the promotion of that officer shall be the same as that of the officer's running mate in the grade to which the running mate is promoted.

(e) **ARMY RESERVE AND AIR FORCE RESERVE PROMOTIONS TO FILL VACANCIES.**—Subject to this section and to section 14311(e) of this title, and under regulations prescribed by the Secretary of the military department concerned—

(1) an officer in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a mandatory promotion board convened under section 14101(a) of this title or a board convened under section 14502 or chapter 36 of this title may be promoted at any time to fill a vacancy in a position to which the officer is assigned; and

(2) an officer in a grade below colonel in the Army Reserve or the Air Force Reserve who is on a promotion list as a result of selection for promotion by a vacancy promotion board con-

vened under section 14101(a) of this title may be promoted at any time to fill the vacancy for which the officer was selected.

(f) **EFFECTIVE DATE OF PROMOTION AFTER FEDERAL RECOGNITION.**—(1) The effective date of a promotion of a reserve commissioned officer of the Army or the Air Force who is extended Federal recognition in the next higher grade in the Army National Guard or the Air National Guard under section 307 or 310 of title 32 shall be the date on which such Federal recognition in that grade is so extended.

(2) If there is a delay in extending Federal recognition in the next higher grade in the Army National Guard or the Air National Guard to a reserve commissioned officer of the Army or the Air Force that exceeds 100 days from the date the National Guard Bureau deems such officer's application for Federal recognition to be completely submitted by the State and ready for review at the National Guard Bureau, and the delay was not attributable to the action or inaction of such officer—

(A) in the event of State promotion with an effective date before January 1, 2024, the effective date of the promotion concerned under paragraph (1) may be adjusted to a date determined by the Secretary concerned, but not earlier than the effective date of the State promotion; and

(B) in the event of State promotion with an effective date on or after January 1, 2024, the effective date of the promotion concerned under paragraph (1) shall be adjusted by the Secretary concerned to the later of—

(i) the date the National Guard Bureau deems such officer's application for Federal recognition to be completely submitted by the State and ready for review at the National Guard Bureau; and

(ii) the date on which the officer occupies a billet in the next higher grade.

(g) **ARMY AND AIR FORCE GENERAL OFFICER PROMOTIONS.**—A reserve officer of the Army or the Air Force who is on a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in the Army Reserve or the Air Force Reserve, as the case may be, in that grade.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2937; amended Pub. L. 105-85, div. A, title V, §514(c), Nov. 18, 1997, 111 Stat. 1732; Pub. L. 107-107, div. A, title V, §§505(b)(1), 506(b), Dec. 28, 2001, 115 Stat. 1086, 1089; Pub. L. 109-364, div. A, title V, §511(d)(2), Oct. 17, 2006, 120 Stat. 2183; Pub. L. 114-92, div. A, title V, §502(b), Nov. 25, 2015, 129 Stat. 806; Pub. L. 115-232, div. A, title V, §518(a), Aug. 13, 2018, 132 Stat. 1754; Pub. L. 116-92, div. A, title V, §510(c), Dec. 20, 2019, 133 Stat. 1347; Pub. L. 117-263, div. A, title V, §513, Dec. 23, 2022, 136 Stat. 2565; Pub. L. 118-31, div. A, title V, §503(b)(2), Dec. 22, 2023, 137 Stat. 241.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in subsections (a), (d), and (f) of this section were contained in sections 3385, 5902(a)

to (c), and 8374 of this title, prior to repeal by Pub. L. 103-337, §1629(a)(1), (b)(2), (c)(1).

AMENDMENTS

2023—Subsec. (c)(3), (4). Pub. L. 118-31 added par. (3) and redesignated former par. (3) as (4).

2022—Subsec. (f)(2). Pub. L. 117-263 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “If the Secretary concerned determines that there was an undue delay in extending Federal recognition in the next higher grade in the Army National Guard or the Air National Guard to a reserve commissioned officer of the Army or the Air Force, and the delay was not attributable to the action (or inaction) of such officer, the effective date of the promotion concerned under paragraph (1) may be adjusted to a date determined by the Secretary concerned, but not earlier than the effective date of the State promotion.”

2019—Subsec. (a). Pub. L. 116-92 inserted “or based on particular merit, as determined by the promotion board” after “reserve active-status list”.

2018—Subsec. (f)(1). Pub. L. 115-232, §518(a)(1), which directed amendment of subsec. (f) by inserting “(1)” before “The effective date of promotion”, was executed by making the insertion before “The effective date of a promotion” to reflect the probable intent of Congress.

Subsec. (f)(2). Pub. L. 115-232, §518(a)(2), added par. (2).

2015—Subsec. (b)(4)(E). Pub. L. 114-92 added subpar. (E).

2006—Subsec. (a). Pub. L. 109-364 inserted at end “A promotion list is considered to be established under this section as of the date of the approval of the report of the selection board under the preceding sentence.”

2001—Subsec. (b)(4). Pub. L. 107-107, §505(b)(1), added par. (4).

Subsec. (c)(2). Pub. L. 107-107, §506(b)(1)(B), added par. (2). Former par. (2) redesignated (3).

Subsec. (c)(3). Pub. L. 107-107, §506(b)(1)(A), (2), redesignated par. (2) as (3) and inserted “provided in paragraph (2) or as otherwise” after “Except as”.

1997—Subsec. (e)(2). Pub. L. 105-85, §514(c)(1), inserted “a grade below colonel in” after “an officer in”.

Subsec. (g). Pub. L. 105-85, §514(c)(2), inserted “or the Air Force” after “A reserve officer of the Army”, substituted “in the Army Reserve or the Air Force Reserve, as the case may be, in that grade” for “in that grade in a unit of the Army Reserve that is organized to serve as a unit and that has attained the strength prescribed by the Secretary of the Army”, and struck out at end “A reserve officer of the Air Force who is on a promotion list for promotion to the grade of brigadier general or major general as a result of selection by a vacancy promotion board may be promoted to that grade only to fill a vacancy in the Air Force Reserve in that grade.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-232, div. A, title V, §518(b), Aug. 13, 2018, 132 Stat. 1754, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 13, 2018], and shall apply with respect to promotions of officers whose State effective date is on or after that date.”

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-364 effective Oct. 17, 2006, and applicable with respect to officers on promotion lists established on or after such date, see section 511(e) of Pub. L. 109-364, set out as a note under section 624 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Subsec. (c)(2) of this section applicable with respect to any report of a selection board recommending offi-

cers for promotion to the next higher grade that is submitted to the Secretary of the military department concerned on or after Dec. 28, 2001, and Secretary of the military department concerned may apply subsec. (c)(2) of this section in the case of an appointment of an officer to a higher grade resulting from a report of a selection board submitted to the Secretary before Dec. 28, 2001, if the Secretary determines that such appointment would have been made on an earlier date that is on or after Oct. 1, 2001, and was delayed under the circumstances specified in section 741(d)(4) of this title, see section 506(c) of Pub. L. 107-107, set out as a note under section 741 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103-337, set out as a note under section 10001 of this title.

§ 14309. Acceptance of promotion; oath of office

(a) ACCEPTANCE.—An officer who is appointed to a higher grade under this chapter shall be considered to have accepted the appointment on the date on which the appointment is made unless the officer expressly declines the appointment or is granted a delay of promotion under section 14312 of this title.

(b) OATH.—An officer who has served continuously since taking 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 this chapter.

(Added Pub. L. 103-337, div. A, title XVI, § 1611, Oct. 5, 1994, 108 Stat. 2938.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3394 and 8394 of this title, prior to repeal by Pub. L. 103-337, § 1629(a)(1), (c)(1).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103-337, set out as a note under section 10001 of this title.

§ 14310. Removal of officers from a list of officers recommended for promotion

(a) REMOVAL BY PRESIDENT.—The President may remove the name of any officer from a promotion list at any time before the date on which the officer is promoted.

(b) REMOVAL FOR WITHHOLDING OF SENATE ADVICE AND CONSENT.—If the Senate does not give its advice and consent to the appointment to the next higher grade of an officer whose name is on a list of officers approved by the President for promotion (except in the case of promotions to a reserve grade to which appointments may be made by the President alone), the name of that officer shall be removed from the list.

(c) REMOVAL AFTER 18 MONTHS.—(1) If an officer whose name is on a list of officers approved for promotion under section 14308(a) of this title to a grade for which appointment is required by section 12203(a) of this title to be made by and with the advice and consent of the Senate is not appointed to that grade under such section during the officer's promotion eligibility period,

the officer's name shall be removed from the list unless as of the end of such period the Senate has given its advice and consent to the appointment.

(2) Before the end of the promotion eligibility period with respect to an officer under paragraph (1), the President may extend that period for purposes of paragraph (1) by an additional 12 months.

(3) In this subsection, the term "promotion eligibility period" means, with respect to an officer whose name is on a list of officers approved for promotion under section 14308(a) of this title to a grade for which appointment is required by section 12203(a) of this title to be made by and with the advice and consent of the Senate, the period beginning on the date on which the list is so approved and ending on the first day of the eighteenth month following the month during which the list is so approved.

(d) ADMINISTRATIVE REMOVAL.—Under regulations prescribed by the Secretary concerned, if an officer on the reserve active-status list is discharged or dropped from the rolls or transferred to a retired status after having been recommended for promotion to a higher grade under this chapter or having been found qualified for Federal recognition in the higher grade under title 32, but before being promoted, the officer's name shall be administratively removed from the list of officers recommended for promotion by a selection board.

(e) CONTINUED ELIGIBILITY FOR PROMOTION.—An officer whose name is removed from a list under subsection (a), (b), or (c) continues to be eligible for consideration for promotion. If that officer is recommended for promotion by the next selection board convened for that officer's grade and competitive category and the officer is promoted, the Secretary of the military department concerned may, upon the promotion, grant the officer the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the reserve active-status list, as the officer would have had if the officer's name had not been removed from the list.

(Added Pub. L. 103-337, div. A, title XVI, § 1611, Oct. 5, 1994, 108 Stat. 2938; amended Pub. L. 109-364, div. A, title V, § 515(b), Oct. 17, 2006, 120 Stat. 2186; Pub. L. 110-181, div. A, title X, § 1063(a)(16), Jan. 28, 2008, 122 Stat. 322; Pub. L. 111-383, div. A, title V, § 504(b), title X, § 1075(f)(7), Jan. 7, 2011, 124 Stat. 4208, 4376.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5905 of this title, prior to repeal by Pub. L. 103-337, § 1629(b)(2).

AMENDMENTS

2011—Subsec. (d). Pub. L. 111-383, § 504(b)(2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 111-383, § 1075(f)(7), made technical amendment to directory language of Pub. L. 110-181, § 1063(a)(16). See 2008 Amendment note below.

Pub. L. 111-383, § 504(b)(1), redesignated subsec. (d) as (e).

2008—Subsec. (d). Pub. L. 110-181, § 1063(a)(16), as amended by Pub. L. 111-383, § 1075(f)(7), inserted comma after "(a)".