TITLE 10 - ARMED FORCES
Subtitle A - General Military Law
PART II - PERSONNEL
CHAPTER 32 - OFFICER STRENGTH AND DISTRIBUTION IN GRADE

§ 521. Authority to prescribe total strengths of officers on active duty and officer strengths in various categories

(a) Whenever the needs of the services require, but at least once each fiscal year, the Secretary of Defense shall prescribe the total authorized active-duty strength as of the end of the fiscal year for officers in grades above chief warrant officer, W–5, for each of the armed forces under the jurisdiction of the Secretary of a military department.

(b) Under regulations prescribed by the Secretary of Defense, the Secretary of each military department may, for an armed force under his jurisdiction, prescribe the strength of any category of officers that may serve on active duty.


Amendments

Effective Date of 1991 Amendment
Section 1132 of title XI of Pub. L. 102–190 provided that: “This title [enacting sections 571 to 583 and 742 of this title, amending this section, sections 522, 597 [now 12241], 598 [now 12242], 603, 628, 644, 741, 1166, 1174, 1305, 1406, 5414, 5457, 5458, 5501 to 5503, 5596, 5600, 5665, 6389, and 6391 of this title, sections 286a and 334 of Title 14, Coast Guard, and sections 201, 301, 301c, 305a, and 406 of Title 37, Pay and Allowances of the Uniformed Services, repealing sections 555 to 565, 602, and 745 of this title, and enacting provisions set out as notes under sections 555 and 571 of this title and section 1009 of Title 37] and the amendments made by this title shall take effect on February 1, 1992.”

Effective Date
Chapter effective Sept. 15, 1981, but the authority to prescribe regulations under this chapter effective 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.

Evaluation of Effects of Officer Strength Reductions on Officer Personnel Management Systems
Pub. L. 102–484, div. A, title V, § 502, Oct. 23, 1992, 106 Stat. 2402, directed the Secretary of Defense to provide for an independent, federally funded research and development center to review the officer personnel management system of each of the military departments and to determine and evaluate the effects of post-Cold War officer strength reductions on that officer personnel management system, required the center to submit to the Secretary of Defense a report on the results of the review and evaluation not later than Dec. 31, 1993, and directed the Secretary to transmit the report to committees of Congress within 60 days after receipt.

Strength of Active Duty Officer Corps
Pub. L. 100–456, div. A, title IV, § 402(c), Sept. 29, 1988, 102 Stat. 1663, provided that:

“(1) The number of officers serving on active duty (excluding officers in categories specified in paragraph (2)) as of September 30, 1990, may not exceed—
“(A) in the case of the Army, 106,427; and
“(B) in the case of the Air Force, 102,438.
“(2) Officers in the categories described in section 403(b) of the National Defense Authorization Act for Fiscal Year 1987 [Pub. L. 99–661, set out below] shall be excluded in counting officers under this subsection.”


“(a) Authority To Increase for Fiscal Year 1988.—Subject to subsection (b), the Secretary of Defense may increase by not more than 1 percentage point (to not more than 98 percent) the percentage limitation prescribed in section 403(a) of the National Defense Authorization Act for Fiscal Year 1987 [Public Law 99–661; 100 Stat. 3859] [set out below] applicable to the total number of commissioned officers of the Army, Navy, Air Force, and Marine Corps that may be serving on active duty as of September 30, 1988.
“(b) Certification and Report.—The Secretary may exercise the authority under subsection (a) only if—
“(1) the Secretary makes a determination that such increase is necessary in order to avoid severe personnel management problems in the Army, Navy, Air Force, and Marine Corps during fiscal year 1988 and certifies such determination to the Committees on Armed Services of the Senate and the House of Representatives; and
“(2) the Secretary submits to those Committees with such certification a report providing legislative recommendations for temporary changes in chapter 36 of title 10, United States Code, and other provisions of law enacted by the Defense Officer Personnel Management Act (Public Law 96–513) [see Tables for classification] that the Secretary considers necessary in order to implement the required officer reductions under such section 403 [set out below] with the least possible adverse effect on the Armed Forces.”


“(a) Reduction in Size of Officer Corps.—On and after each of the dates set forth in column 1 of the following table, the total number of commissioned officers serving on active duty in the Army, Navy, Air Force, and Marine Corps (excluding officers in categories specified in subsection (b)) may not exceed the percentage, set forth in column 2 opposite such date, of the total number of commissioned officers serving on active duty as of September 30, 1986 (excluding officers in categories specified in subsection (b)):

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>On and after:</td>
<td>Percentage of total commissioned officers serving on active duty as of September 30, 1986:</td>
</tr>
<tr>
<td>September 30, 1987</td>
<td>99</td>
</tr>
<tr>
<td>September 30, 1988</td>
<td>97</td>
</tr>
</tbody>
</table>

“(b) Exclusions.—In computing the authorized strength of commissioned officers under subsection (a), officers in the following categories shall be excluded:
“(1) Reserve officers—
“(A) on active duty for training;
“(B) on active duty under section 10148 (a), 10211, 10302 through 10305, 12301 (a), or 12402 of title 10, United States Code, or under section 708 of title 32, United States Code;
“(C) on active duty under section 12301 (d) of title 10, United States Code, in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard;
“(D) on active duty to pursue special work;
“(E) ordered to active duty under section 12304 of title 10, United States Code; or
“(F) on full-time National Guard duty.
“(2) Retired officers on active duty under a call or order to active duty for 180 days or less.
“(3) Reserve or retired officers on active duty under section 10(b)(2) of the Military Selective Service Act (50 App. U.S.C. 460 (b)(2)) for the administration of the Selective Service System.
“(c) Apportionment of Reductions by Secretary of Defense.—The Secretary of Defense shall apportion the reductions in the number of commissioned officers serving on active duty required by subsection (a) among the Army, Navy, Air Force, and Marine Corps. Not later than February 1 of each fiscal year in which reductions are required under subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the manner in which the reductions have been or are to be apportioned for that fiscal year and for the next fiscal year for which such reductions are required.”