

Academy or the United States Air Force Academy, and each midshipman at the United States Naval Academy, is entitled, before graduating from that Academy, to state his preference for appointment, upon graduation, as a commissioned officer in either the Army, Navy, Air Force, or Marine Corps.

(b) With the consent of the Secretary of the military department administering the Academy from which the cadet or midshipman is to be graduated, and of the Secretary of the military department having jurisdiction over the armed force for which that graduate stated his preference, the graduate is entitled to be accepted for appointment in that armed force. However, not more than 12½ percent of any graduating class at an Academy may be appointed in armed forces not under the jurisdiction of the military department administering that Academy.

(c) The Secretary of Defense shall, by regulation, provide for the equitable distribution of appointments in cases where more than 12½ percent of the graduating class of any Academy request appointment in armed forces not under the jurisdiction of the military department administering that Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 19.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
541(a)	10:1092c-1(a) (1st 59 words of 1st sentence). 10:1856(a) (1st 59 words of 1st sentence). 34:1057-1(a) (1st 59 words of 1st sentence).	Apr. 1, 1954, ch. 127, § 8, 68 Stat. 48.
541(b)	10:1092c-1(a) (1st sentence, less 1st 59 words). 10:1856(a) (1st sentence, less 1st 59 words). 34:1057-1(a) (1st sentence, less 1st 59 words).	
541(c)	10:1092c-1 (less (a)). 10:1856 (less (a)). 34:1057-1 (less (a)).	

In subsection (a), the words “is entitled * * * to” are substituted for the words “shall * * * be afforded an opportunity to”.

In subsection (b), the words “is entitled” are substituted for the word “shall”.

In subsection (c), the words “and fair” are omitted as surplusage. 10:1092c-1(c), 10:1856(c), and 34:1057-1(c) are omitted as covered by section 51(a) of the bill.

EFFECTIVE DATE

Section 52(a) of act Aug. 10, 1956, provided that: “Section 541 of title 10, United States Code, enacted by section 1 of this Act, takes effect (1) in the year in which the initial class graduates from the United States Air Force Academy, or (2) upon the rescission of the agreement under which graduates of the United States Military Academy and the United States Naval Academy may volunteer for appointment in the Air Force, whichever is earlier.”

APPOINTMENT OF UNITED STATES MILITARY ACADEMY GRADUATES IN AIR FORCE

Act Aug. 10, 1956, ch. 1041, § 44, 70A Stat. 637, provided that a cadet who had graduated from the United States Military Academy could, upon graduation and before the effective date of section 541 of this title, be appointed a second lieutenant in the Regular Air Force, and set forth provisions relating to date of appointment, service credit, rank among graduates, and increase in authorized strength.

[[§§ 555 to 565. Repealed. Pub. L. 102-190, div. A, title XI, § 1112(a), Dec. 5, 1991, 105 Stat. 1492]

Section 555, acts Aug. 10, 1956, ch. 1041, 70A Stat. 20; Sept. 7, 1962, Pub. L. 87-649, §§ 6(f)(2), 14c(2), 76 Stat. 494, 501; July 30, 1977, Pub. L. 95-79, title III, § 302(a)(4), 91 Stat. 326; Nov. 8, 1985, Pub. L. 99-145, title V, § 531(a), title XIII, § 1303(a)(5), 99 Stat. 633, 739, related to warrant officer grades. See section 571(a) and (b) of this title.

Section 556, act Aug. 10, 1956, ch. 1041, 70A Stat. 20, related to credit for service of persons originally appointed in regular warrant officer grades under section 555 of this title. See section 572 of this title.

Section 557, act Aug. 10, 1956, ch. 1041, 70A Stat. 20, related to qualifications for promotion of regular warrant officers.

Section 558, act Aug. 10, 1956, ch. 1041, 70A Stat. 20, related to appointment of selection boards to consider promotions of regular warrant officers. See section 573(a), (b), (e), and (f) of this title.

Section 559, act Aug. 10, 1956, ch. 1041, 70A Stat. 21, related to eligibility of regular warrant officers for promotion.

Section 560, acts Aug. 10, 1956, ch. 1041, 70A Stat. 21; Sept. 2, 1958, Pub. L. 85-861, § 33(a)(3), 72 Stat. 1564, related to selection procedure for promotion of warrant officers. See section 576(a) to (e) of this title.

Section 561, act Aug. 10, 1956, ch. 1041, 70A Stat. 22, related to effect of failure of selection of regular warrant officers for promotion. See section 577 of this title.

Section 562, act Aug. 10, 1956, ch. 1041, 70A Stat. 22, related to disapproval of promotion of regular warrant officers by Secretary concerned, President, or Senate. See section 579 of this title.

Section 563, act Aug. 10, 1956, ch. 1041, 70A Stat. 22, related to effective date of promotion of regular warrant officer.

Section 564, acts Aug. 10, 1956, ch. 1041, 70A Stat. 22; Sept. 7, 1962, Pub. L. 87-649, § 6(f)(3), 76 Stat. 494; Nov. 2, 1966, Pub. L. 89-718, § 3, 80 Stat. 1115; Dec. 12, 1980, Pub. L. 96-513, title V, § 501(6), 94 Stat. 2907, related to effect of second failure of promotion for regular warrant officers. See section 580(a) to (d) of this title.

Section 565, act Aug. 10, 1956, ch. 1041, 70A Stat. 24, related to suspension of laws for promotion or mandatory retirement or separation of regular warrant officers during war or emergency.

EFFECTIVE DATE OF REPEAL

Repeal effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

PRESERVATION OF EXISTING LAW FOR COAST GUARD

Pub. L. 102-190, div. A, title XI, § 1125(a), Dec. 5, 1991, 105 Stat. 1505, provided that sections 555 to 565 of this title, as in effect on the day before Feb. 1, 1992, would continue to apply to the Coast Guard on and after that date, prior to repeal by Pub. L. 103-337, div. A, title V, § 541(f)(1), Oct. 5, 1994, 108 Stat. 2766.

CHAPTER 33A—APPOINTMENT, PROMOTION, AND INVOLUNTARY SEPARATION AND RETIREMENT FOR MEMBERS ON THE WARRANT OFFICER ACTIVE-DUTY LIST

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AMENDMENTS

1993—Pub. L. 103-160, div. A, title V, §504(b), Nov. 30, 1993, 107 Stat. 1645, added item 580a.

1992—Pub. L. 102-484, div. A, title X, §1052(6), Oct. 23, 1992, 106 Stat. 2499, inserted “to be” after “Information” in item 576 and substituted “Promotions:” for “Promotions;” in item 578.

§ 571. Warrant officers: grades

(a) The regular warrant officer grades in the armed forces corresponding to the pay grades prescribed for warrant officers by section 201(b) of title 37 are as follows:

Warrant officer grade:

- Chief warrant officer, W-5.
- Chief warrant officer, W-4.
- Chief warrant officer, W-3.
- Chief warrant officer, W-2.
- Warrant officer, W-1.

(b) Appointments in the grade of regular warrant officer, W-1, shall be made by warrant, except that with respect to an armed force under the jurisdiction of the Secretary of a military department, the Secretary concerned may provide by regulation that appointments in that grade in that armed force shall be made by commission. Appointments in regular chief warrant officer grades shall be made by commission by the President, and appointments (whether by warrant or commission) in the grade of regular warrant officer, W-1, shall be made by the President, except that appointments in that grade in the Coast Guard shall be made by the Secretary concerned.

(c) An appointment may not be made in any of the armed forces in the regular warrant officer grade of chief warrant officer, W-5, if the appointment would result in more than 5 percent of the warrant officers of that armed force on active duty being in the grade of chief warrant officer, W-5. In computing the limitation prescribed in the preceding sentence, there shall be excluded warrant officers described in section 582 of this title.

(Added Pub. L. 102-190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1493; amended Pub. L. 102-484, div. A, title X, §1052(2), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 103-337, div. A, title V, §541(a)(2), Oct. 5, 1994, 108 Stat. 2764; Pub. L. 111-383, div. A, title V, §502(a), Jan. 7, 2011, 124 Stat. 4207.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 555 of this title prior to repeal by Pub. L. 102-190, §1112(a).

AMENDMENTS

2011—Subsec. (b). Pub. L. 111-383 substituted “, except that with respect to an armed force under the

jurisdiction of the Secretary of a military department, the Secretary concerned may provide by regulation that appointments in that grade in that armed force shall be made by commission” for “by the Secretary concerned” and inserted “, and appointments (whether by warrant or commission) in the grade of regular warrant officer, W-1, shall be made by the President, except that appointments in that grade in the Coast Guard shall be made by the Secretary concerned” after “commission by the President”.

1994—Subsec. (a). Pub. L. 103-337 substituted “armed forces” for “Army, Navy, Air Force, and Marine Corps”.

1992—Subsec. (a). Pub. L. 102-484 inserted a period at end of each item in table.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 541(h) of Pub. L. 103-337 provided that: “This section [enacting section 215 of Title 14, Coast Guard, amending this section, sections 573 to 576, 580, 580a, 581, and 583 of this title, and sections 41, 214, 286a, and 334 of Title 14, repealing sections 212 and 213 of Title 14, enacting provisions set out as notes under this section, and repealing a provision set out as a note under former section 555 of this title] and the amendments made by this section shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act [Oct. 5, 1994].”

EFFECTIVE DATE

Chapter effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as an Effective Date of 1991 Amendment note under section 521 of this title.

SHORT TITLE

Section 1101 of title XI of Pub. L. 102-190 provided that: “This title [enacting this chapter and section 742 of this title, amending sections 521, 522, 597, 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 this section, sections 521 and 555 of this title, and section 1009 of Title 37] may be cited as the ‘Warrant Officer Management Act’.”

TRANSITION AND SAVINGS PROVISIONS

Section 541(c), (d) of Pub. L. 103-337, as amended by Pub. L. 104-106, div. A, title XV, §1504(a)(3), Feb. 10, 1996, 110 Stat. 513, provided that:

“(c) TRANSITION FOR CERTAIN REGULAR WARRANT OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW CHIEF WARRANT OFFICER, W-5.—(1) A regular warrant officer of the Coast Guard who on the effective date of this section [see Effective Date of 1994 Amendment note above] is on active duty and—

“(A) is serving in a temporary grade below chief warrant officer, W-5, that is higher than that warrant officer’s permanent grade;

“(B) is on a list of officers recommended for promotion to a temporary grade below chief warrant officer, W-5; or

“(C) is on a list of officers recommended for promotion to a permanent grade higher than the grade in which that warrant officer is serving;

shall be considered to have been recommended by a board convened under section 573 of title 10, United States Code, as amended by subsection (b), for promotion to the permanent grade equivalent to the grade in which that warrant officer is serving or for which that warrant officer has been recommended for promotion, as the case may be.

“(2) An officer referred to in subparagraph (A) of paragraph (1) who is not promoted to the grade to which that warrant officer is considered under such subsection to have been recommended for promotion

because that officer's name is removed from a list of officers who are considered under such paragraph to have been recommended for promotion shall be considered by a board convened under section 573 of title 10, United States Code, as amended by subsection (b), for promotion to the permanent grade equivalent to the temporary grade in which that warrant officer was serving on the effective date of this section as if that warrant officer were serving in the permanent grade.

“(3) The date of rank of an officer referred to in paragraph (1)(A) who is promoted to the grade in which that warrant officer is serving on the effective date of this section is the date of that officer's temporary appointment in that grade.

“(d) TRANSITION FOR CERTAIN RESERVE WARRANT OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW CHIEF WARRANT OFFICER, W-5.—(1)(A) Except as provided in paragraph (2), a reserve warrant officer of the Coast Guard who on the effective date of this section [see Effective Date of 1994 Amendment note above] is subject to placement on the warrant officer active-duty list and who—

“(i) is serving in a temporary grade below chief warrant officer, W-5, that is higher than that warrant officer's permanent grade; or

“(ii) is on a list of warrant officers recommended for promotion to a temporary grade below chief warrant officer, W-5, that is the same as or higher than that warrant officer's permanent grade;

shall be considered to have been recommended by a board convened under section 598 [now 12242] of title 10, United States Code, for promotion to the permanent grade equivalent to the grade in which the warrant officer is serving or for which that warrant officer has been recommended for promotion, as the case may be.

“(B) The date of rank of a warrant officer referred to in subparagraph (A)(i) who is promoted to the grade in which that warrant officer is considered under such subparagraph to have been recommended for promotion is the date of the temporary appointment of that warrant officer in that grade.

“(2) A reserve warrant officer of the Coast Guard who on the effective date of this section—

“(A) is subject to placement on the warrant officer active-duty list;

“(B) is serving on active duty in a temporary grade; and

“(C) holds a permanent grade higher than the temporary grade in which that warrant officer is serving; shall while continuing on active duty retain such temporary grade and shall be considered for promotion to a grade equal to or lower than the permanent grade as if such temporary grade is a permanent grade. If such warrant officer is recommended for promotion, the appointment of that warrant officer to such grade shall be a temporary appointment.”

Part B (§§ 1121–1124) of title XI of Pub. L. 102–190 provided that:

“SEC. 1121. TRANSITION FOR CERTAIN REGULAR WARRANT OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW CHIEF WARRANT OFFICER, W-5.

“(a) CERTAIN OFFICERS TO BE CONSIDERED AS RECOMMENDED FOR PROMOTION.—A regular warrant officer of the Armed Forces (other than the Coast Guard) who on the effective date of this title [Feb. 1, 1992] is on active duty and—

“(1) is serving in a temporary grade below chief warrant officer, W-5, that is higher than his permanent grade;

“(2) is on a list of officers recommended for promotion to a temporary grade below chief warrant officer, W-5; or

“(3) is on a list of officers recommended for promotion to a permanent grade higher than the grade in which he is serving;

shall be considered to have been recommended by a board convened under section 573 of title 10, United States Code, as added by this title, for promotion to

the permanent grade equivalent to the grade in which he is serving or for which he has been recommended for promotion, as the case may be.

“(b) BOARD CONSIDERATION FOR OFFICERS REMOVED FROM PROMOTION LIST.—An officer referred to in paragraph (1) of subsection (a) who is not promoted to the grade to which he is considered under such subsection to have been recommended for promotion because his name is removed from a list of officers who are considered under such paragraph to have been recommended for promotion shall be considered by a board convened under section 573 of title 10, United States Code, as amended by this title, for promotion to the permanent grade equivalent to the temporary grade in which he was serving on the effective date of this title as if he were serving in his permanent grade.

“(c) DATE OF RANK.—The date of rank of an officer referred to in subsection (a)(1) who is promoted to the grade in which he is serving on the effective date of this title is the date of his temporary appointment in that grade.

“SEC. 1122. TRANSITION FOR CERTAIN RESERVE WARRANT OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW CHIEF WARRANT OFFICER, W-5.

“(a) CERTAIN OFFICERS TO BE CONSIDERED AS RECOMMENDED FOR PROMOTION.—(1) Except as provided in subsection (b), a reserve warrant officer of the Armed Forces (other than the Coast Guard) who on the effective date of this title [Feb. 1, 1992] is subject to placement on the warrant officer active-duty list and who—

“(A) is serving in a temporary grade below chief warrant officer, W-5, that is higher than his permanent grade; or

“(B) is on a list of warrant officers recommended for promotion to a temporary grade below chief warrant officer, W-5, that is the same as or higher than his permanent grade;

shall be considered to have been recommended by a board convened under section 598 [now 12242] of title 10, United States Code, for promotion to the permanent grade equivalent to the grade in which he is serving or for which he has been recommended for promotion, as the case may be.

“(2) The date of rank of a warrant officer referred to in paragraph (1)(A) who is promoted to the grade in which he is considered under such paragraph to have been recommended for promotion is the date of his temporary appointment in that grade.

“(b) RESERVES ON ACTIVE DUTY.—A reserve warrant officer who on the effective date of this title—

“(1) is subject to placement on the warrant officer active-duty list;

“(2) is serving on active duty in a temporary grade; and

“(3) holds a permanent grade higher than the temporary grade in which he is serving,

shall while continuing on active duty retain such temporary grade and shall be considered for promotion to a grade equal to or lower than his permanent grade as if such temporary grade is a permanent grade. If such warrant officer is recommended for promotion, his appointment to such grade shall be a temporary appointment.

“SEC. 1123. CONTINUATION OF CERTAIN TEMPORARY APPOINTMENTS OF NAVY AND MARINE CORPS WARRANT OFFICERS.

“A warrant officer of the Navy or Marine Corps who, on the effective date of this title [Feb. 1, 1992], is subject to placement on the warrant officer active-duty list and who—

“(1) was appointed as a temporary warrant officer under section 5596 of title 10, United States Code, and

“(2) has retained a permanent enlisted status, shall, while continuing on active duty, retain such temporary status and grade. Such an officer shall be considered for promotion to a higher warrant officer grade under this title [see Short Title note above] as if that temporary grade is a permanent grade. If the officer is

recommended for promotion, the officer's appointment to that grade shall be a temporary appointment.

“SEC. 1124. SAVINGS PROVISION FOR CERTAIN REGULAR ARMY WARRANT OFFICERS FACING MANDATORY RETIREMENT FOR LENGTH OF SERVICE.

“(a) SAVINGS PROVISION.—Subject to subsection (b), a regular warrant officer of the Army who on the effective date of this title [Feb. 1, 1992]—

“(1) is a permanent regular chief warrant officer; or

“(2) is on a list of officers recommended for promotion to a regular chief warrant officer grade, may be retained on active duty until he completes 30 years of active service or 24 years of active warrant officer service, whichever is later, that could be credited to him under section 511 of the Career Compensation Act of 1949 (70 Stat. 114) [act Oct. 12, 1949, formerly set out as a note under section 580 of this title] (as in effect on the day before the effective date of this part [Feb. 1, 1992]), and then be retired under the appropriate provision of title 10, United States Code, on the first day of the month after the month in which he completes that service.

“(b) EXCEPTIONS.—Subsection (a) does not apply to a regular warrant officer who—

“(1) is sooner retired or separated under another provision of law;

“(2) is promoted to the regular grade of chief warrant officer, W-5; or

“(3) is continued on active duty under section 580(e) of title 10, United States Code, as added by this title.”

DELEGATION OF FUNCTIONS

Functions of President under second sentence of subsec. (b) of this section delegated to Secretary of Defense by section 1(b) of Ex. Ord. No. 13384, July 27, 2005, 70 F.R. 43739, set out as a note under section 531 of this title.

ESTABLISHMENT OF PERMANENT GRADE OF CHIEF WARRANT OFFICER, W-5

Section 541(a)(1) of Pub. L. 103-337 provided that: “The grade of chief warrant officer, W-5, is hereby established in the Coast Guard.”

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

Section 1111(a) of Pub. L. 102-190 provided that: “The grade of chief warrant officer, W-5, is hereby established in the Army, Navy, Air Force, and Marine Corps.”

§ 572. Warrant officers: original appointment; service credit

For the purposes of promotion, persons originally appointed in regular or reserve warrant officer grades shall be credited with such service as the Secretary concerned may prescribe. However, such a person may not be credited with a period of service greater than the period of active service performed in the grade, or pay grade corresponding to the grade, in which so appointed, or in any higher grade or pay grade.

(Added Pub. L. 102-190, div. A, title XI, § 1112(a), Dec. 5, 1991, 105 Stat. 1493.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 556 of this title prior to repeal by Pub. L. 102-190, § 1112(a).

§ 573. Convening of selection boards

(a)(1) Whenever the Secretary concerned determines that the needs of the service so require, he shall convene a selection board to recommend for promotion to the next higher warrant officer grade warrant officers on the warrant officer active-duty list who are in the grade of chief warrant officer, W-2, chief warrant officer, W-3, or chief warrant officer, W-4.

(2) Warrant officers serving on the warrant officer active-duty list in the grade of warrant officer, W-1, shall be promoted to the grade of chief warrant officer, W-2, in accordance with regulations prescribed by the Secretary concerned. Such regulations shall require that an officer have served not less than 18 months on active duty in the grade of warrant officer, W-1, before promotion to the grade of warrant officer, W-2.

(b) A selection board shall consist of five or more officers who are on the active-duty list of the same armed force as the warrant officers under consideration by the board. At least five members of a selection board must be serving in a permanent grade above major or lieutenant commander. The Secretary concerned may appoint warrant officers, senior in grade to those under consideration, as additional members of the selection board. If warrant officers are appointed members of the selection board and if competitive categories have been established by the Secretary under section 574(b) of this title, at least one must be appointed from each warrant officer competitive category under consideration by the board, unless there is an insufficient number of warrant officers in the competitive category concerned who are senior in grade to those under consideration and qualified, as determined by the Secretary concerned, to be appointed as additional members of the board.

(c) The Secretary concerned may convene selection boards to recommend regular warrant officers for continuation on active duty under section 580 of this title and for retirement under section 581 of this title.

(d) When reserve warrant officers of one of the armed forces are to be considered by a selection board convened under subsection (a), the membership of the board shall, if practicable, include at least one reserve officer of that armed force, with the exact number of reserve officers to be determined by the Secretary concerned.

(e) No officer may serve on two consecutive boards under this section, if the second board considers any warrant officer who was considered by the first board.

(f) The Secretary concerned shall prescribe all other matters relating to the functions and duties of the boards, including the number of members constituting a quorum, and instructions concerning notice of convening of boards and communications with boards.

(Added Pub. L. 102-190, div. A, title XI, § 1112(a), Dec. 5, 1991, 105 Stat. 1493; amended Pub. L. 103-337, div. A, title V, § 541(b)(1), Oct. 5, 1994, 108 Stat. 2764; Pub. L. 104-106, div. A, title XV, § 1503(a)(5), Feb. 10, 1996, 110 Stat. 511.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 558 of this title prior to repeal by Pub. L. 102-190, § 1112(a).

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104-106 substituted “active-duty list” for “active duty list”.

1994—Subsec. (a)(1). Pub. L. 103-337, §541(b)(1)(A), substituted “Secretary concerned” for “Secretary of a military department”.

Subsec. (a)(2). Pub. L. 103-337, §541(b)(1)(B), struck out “of the military department” after “Secretary”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103-337, set out as a note under section 571 of this title.

§ 574. Warrant officer active-duty lists; competitive categories; number to be recommended for promotion; promotion zones

(a) The Secretary concerned shall maintain for each armed force under the jurisdiction of that Secretary a single list of all warrant officers (other than warrant officers described in section 582 of this title) who are on active duty.

(b) The Secretary concerned may establish competitive categories for promotion. Warrant officers in the same competitive category shall compete among themselves for promotion.

(c) Before convening a selection board under section 573 of this title, the Secretary concerned shall determine for each grade (or grade and competitive category) to be considered by the board the following:

(1) The maximum number of warrant officers to be recommended for promotion.

(2) A promotion zone for warrant officers on the warrant officer active-duty list.

(d) The position of a warrant officer on the warrant officer active-duty list shall be determined as follows:

(1) Warrant officers shall be carried in the order of seniority of the grade in which they are serving on active duty.

(2) Warrant officers serving in the same grade shall be carried in the order of their rank in that grade.

(3) A warrant officer on the warrant officer active-duty list who receives a temporary appointment or a temporary assignment in a grade other than a warrant officer grade or chief warrant officer grade shall retain his position on the warrant officer active-duty list while so serving.

(e) A chief warrant officer may not be considered for promotion to the next higher grade under this chapter until the officer has completed two years of service on active duty in the grade in which the officer is serving.

(Added Pub. L. 102-190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1494; amended Pub. L. 102-484, div. A, title X, §1052(3), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 103-337, div. A, title V, §541(b)(2), Oct. 5, 1994, 108 Stat. 2764; Pub. L. 104-201, div. A, title V, §506(a), Sept. 23, 1996, 110 Stat. 2512.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-201 substituted “two years of service” for “three years of service”.

1994—Subsecs. (a), (b). Pub. L. 103-337 substituted “Secretary concerned” for “Secretary of each military department”.

1992—Subsec. (d)(3). Pub. L. 102-484 substituted “active-duty list” for “active duty list” before “while”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103-337, set out as a note under section 571 of this title.

§ 575. Recommendations for promotion by selection boards

(a) A selection board convened under section 573(a) of this title shall recommend for promotion to the next higher grade those warrant officers considered by the board whom the board, giving due consideration to the needs of the armed force concerned for warrant officers with particular skills, considers best qualified for promotion within each grade (or grade and competitive category) considered by the board.

(b)(1) In the case of a selection board to consider warrant officers for selection for promotion to the grade of chief warrant officer, W-3, chief warrant officer, W-4, or chief warrant officer, W-5, the Secretary concerned shall establish the number of warrant officers that the selection board may recommend from among warrant officers being considered from below the promotion zone within each grade (or grade and competitive category). The number of warrant officers recommended for promotion from below the promotion zone does not increase the maximum number of warrant officers which the board is authorized under section 574 of this title to recommend for promotion.

(2) The number of officers recommended for promotion from below the promotion zone may not exceed 10 percent of the total number recommended, except that the Secretary of Defense and the Secretary of Homeland Security, when the Coast Guard is not operating as a service in the Navy, may authorize such percentage to be increased to not more than 15 percent. If the number determined under this subsection with respect to a promotion zone within a grade (or grade and competitive category) is less than one, the board may recommend one such officer for promotion from below the zone within that grade (or grade and competitive category).

(c) A selection board convened under section 573(a) of this title may not recommend a warrant officer for promotion unless—

(1) the officer receives the recommendation of a majority of the members of the board; and

(2) a majority of the members of the board find that the officer is fully qualified for promotion.

(d) Each time a selection board is convened under section 573(a) of this title to consider warrant officers in a competitive category for promotion to the next higher grade, each warrant officer in the promotion zone, and each warrant officer above the promotion zone, for the grade and competitive category under consideration (except for a warrant officer precluded from consideration under regulations prescribed by the Secretary concerned under section 577 of this title) shall be considered for promotion.

(Added Pub. L. 102-190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1495; amended Pub. L.

103-337, div. A, title V, §§ 501(a), 541(b)(3), Oct. 5, 1994, 108 Stat. 2748, 2764; Pub. L. 104-201, div. A, title V, § 506(b), Sept. 23, 1996, 110 Stat. 2512; Pub. L. 106-65, div. A, title V, § 505, Oct. 5, 1999, 113 Stat. 591; Pub. L. 107-296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

AMENDMENTS

2002—Subsec. (b)(2). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1999—Subsec. (b)(2). Pub. L. 106-65 inserted at end “If the number determined under this subsection with respect to a promotion zone within a grade (or grade and competitive category) is less than one, the board may recommend one such officer for promotion from below the zone within that grade (or grade and competitive category).”

1996—Subsec. (b)(1). Pub. L. 104-201 inserted “chief warrant officer, W-3,” after “promotion to the grade of” in first sentence.

1994—Subsec. (b)(2). Pub. L. 103-337, § 541(b)(3), inserted “and the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy,” after “Secretary of Defense”.

Subsec. (d). Pub. L. 103-337, § 501(a), inserted “(except for a warrant officer precluded from consideration under regulations prescribed by the Secretary concerned under section 577 of this title)” after “under consideration”.

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 section 541(b)(3) of Pub. L. 103-337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103-337, set out as a note under section 571 of this title.

§ 576. Information to be furnished to selection boards; selection procedures

(a) The Secretary concerned shall furnish to each selection board convened under section 573 of this title the following:

(1) The maximum number of warrant officers that may be recommended for promotion from those serving in any grade (or grade and competitive category) to be considered, as determined in accordance with section 574 of this title.

(2) The names and pertinent records of all officers in each grade (or grade and competitive category) to be considered.

(3) Such information or guidelines relating to the needs of the armed force concerned for warrant officers having particular skills, including guidelines or information relating to the need for either a minimum number or a maximum number of officers with particular skills within a grade or competitive category, as the Secretary concerned determines to be relevant in relation to the requirements of that armed force.

(b) From each promotion zone for a grade (or grade and competitive category), the selection board shall recommend for promotion to the next higher warrant officer grade those warrant officers whom it considers best qualified for promotion, but no more than the number specified by the Secretary concerned.

(c) The names of warrant officers selected for promotion under this section shall be arranged in the board’s report in order of the seniority on the warrant officer active-duty list.

(d) Under such regulations as the Secretary concerned may prescribe, the selection board shall report the names of those warrant officers considered by it whose records establish, in its opinion, their unfitness or unsatisfactory performance. A regular warrant officer whose name is so reported shall be considered, under regulations provided by the Secretary concerned, for retirement or separation under section 1166 of this title.

(e) The report of the selection board shall be submitted to the Secretary concerned. The Secretary may approve or disapprove all or part of the report.

(f)(1) Upon receipt of the report of a selection board submitted to him under subsection (e), the Secretary concerned shall review the report to determine whether the board has acted contrary to law or regulation or to guidelines furnished the board under this section.

(2) If, on the basis of a review of the report under paragraph (1), the Secretary concerned determines that the board acted contrary to law or regulation or to guidelines furnished the board under this section, the Secretary shall return the report, together with a written explanation of the basis for such determination, to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this paragraph, the selection board (or a subsequent selection board convened under section 573 of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with subsection (e).

(Added Pub. L. 102-190, div. A, title XI, § 1112(a), Dec. 5, 1991, 105 Stat. 1496; amended Pub. L. 103-337, div. A, title V, §§ 501(b), 541(b)(4), Oct. 5, 1994, 108 Stat. 2748, 2764.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 560 of this title prior to repeal by Pub. L. 102-190, § 1112(a).

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-337, § 541(b)(4)(A), struck out “of the military department” after “The Secretary” in introductory provisions.

Subsec. (e). Pub. L. 103-337, § 541(b)(4)(B), struck out “of the military department” after “submitted to the Secretary”.

Subsec. (f)(1). Pub. L. 103-337, § 501(b), struck out after first sentence “Following such review, unless the Secretary concerned makes a determination as described in paragraph (2), the Secretary shall submit the report as required by subsection (e).”

Subsec. (f)(2). Pub. L. 103-337, § 541(b)(4)(C), struck out “of the military department” after “paragraph (1), the Secretary”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 541(b)(4) of Pub. L. 103-337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103-337, set out as a note under section 571 of this title.

§ 577. Promotions: effect of failure of selection for

A warrant officer who has been considered for promotion by a selection board convened under section 573 of this title, but not selected, shall be considered for promotion by each subsequent selection board that considers officers in his grade (or grade and competitive category) until he is retired or separated or he is selected for promotion. However, the Secretary concerned may, by regulation, preclude from consideration by a selection board by which he would otherwise be eligible to be considered, a warrant officer who has an established separation date that is within 90 days after the date on which the board is convened.

(Added Pub. L. 102-190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1497.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 561 of this title prior to repeal by Pub. L. 102-190, §1112(a).

§ 578. Promotions: how made; effective date

(a) When the report of a selection board convened under this chapter is approved by the Secretary concerned, the Secretary shall place the names of the warrant officers approved for promotion on a single promotion list for each grade (or grade and competitive category), in the order of the seniority of such officers on the warrant officer active-duty list.

(b) Promotions of warrant officers on the warrant officer promotion list shall be made when, in accordance with regulations issued by the Secretary concerned, additional warrant officers in that grade (or grade and competitive category), are needed.

(c) A regular warrant officer who is promoted is appointed in the regular grade to which promoted, and a reserve warrant officer who is promoted is appointed in the reserve grade to which promoted. The date of appointment in that grade and date of rank shall be prescribed by the Secretary concerned. A warrant officer is entitled to the pay and allowances for the grade to which appointed from the date specified in the appointment order.

(d) Promotions shall be made in the order in which the names of warrant officers appear on the promotion list and after warrant officers previously selected for promotion in the applicable grade (or grade and competitive category) have been promoted.

(e) A warrant officer who is appointed to a higher grade under this section is considered to have accepted such appointment on the date on which the appointment is made unless the officer expressly declines the appointment.

(f) A warrant officer who has served continuously as an officer since subscribing to 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 section.

(Added Pub. L. 102-190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1497; amended Pub. L. 102-484, div. A, title X, §1052(4), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 103-337, div. A, title V, §501(c), Oct. 5, 1994, 108 Stat. 2748.)

AMENDMENTS

1994—Subsecs. (e), (f). Pub. L. 103-337 added subsecs. (e) and (f).

1992—Pub. L. 102-484 substituted “Promotions:” for “Promotions;” in section catchline.

§ 579. Removal from a promotion list

(a) The name of a warrant officer recommended for promotion by a selection board convened under this chapter may be removed from the report of the selection board by the President.

(b) The Secretary concerned may remove the name of a warrant officer who is on a promotion list as a result of being recommended for promotion by a selection board convened under this chapter at any time before the promotion is effective.

(c) An officer whose name is removed from the list of officers recommended for promotion by a selection board continues to be eligible for consideration for promotion.

(d) If the next selection board that considers the warrant officer for promotion under this chapter selects the warrant officer for promotion and the warrant officer is promoted, the Secretary concerned may, upon his promotion, grant him the same effective date for pay and allowances and the same date of rank, and the same position on the warrant officer active-duty list as the warrant officer would have had if his name had not been so removed.

(e) If the next selection board does not select the warrant officer for promotion, or if his name is again removed under subsection (a) from the list of officers recommended for promotion by the selection board or under subsection (b) from the warrant officer promotion list, he shall be treated for all purposes as if he has twice failed of selection for promotion.

(Added Pub. L. 102-190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1497.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 562 of this title prior to repeal by Pub. L. 102-190, §1112(a).

§ 580. Regular warrant officers twice failing of selection for promotion: involuntary retirement or separation

(a)(1) Unless retired or separated sooner under some other provision of law, a regular chief warrant officer who has twice failed of selection for promotion to the next higher regular warrant officer grade shall be retired under paragraph (2) or (3) or separated from active duty under paragraph (4).

(2) If a warrant officer described in paragraph (1) has more than 20 years of creditable active service on (A) the date on which the Secretary concerned approves the report of the board under section 576(e) of this title, or (B) the date on which his name was removed from the recommended list under section 579 of this title, whichever applies, the warrant officer shall be retired. The date of such retirement shall be not later than the first day of the seventh calendar month beginning after the applicable date under the preceding sentence, except as provided by

section 8301 of title 5. A warrant officer retired under this paragraph shall receive retired pay computed under section 1401 of this title.

(3) If a warrant officer described in paragraph (1) has at least 18 but not more than 20 years of creditable active service on (A) the date on which the Secretary concerned approves the report of the board under section 576(e) of this title, or (B) the date on which his name was removed from the recommended list under section 579 of this title, whichever applies, the warrant officer shall be retired not later than the date determined under the next sentence unless he is selected for promotion to the next higher regular warrant officer grade before that date. The date of the retirement of a warrant officer under the preceding sentence shall be on a date specified by the Secretary concerned, but not later than the first day of the seventh calendar month beginning after the date upon which he completes 20 years of active service, except as provided by section 8301 of title 5. A warrant officer retired under this paragraph shall receive retired pay computed under section 1401 of this title.

(4)(A) If a warrant officer described in paragraph (1) has less than 18 years of creditable active service on (i) the date on which the Secretary concerned approves the report of the board under section 576(e) of this title, or (ii) the date on which his name was removed from the recommended list under section 579 of this title, whichever applies, the warrant officer shall be separated (except as provided in subparagraph (C)). The date of such separation shall be not later than the first day of the seventh calendar month beginning after the applicable date under the preceding sentence.

(B) A warrant officer separated under this paragraph shall receive separation pay computed under section 1174 of this title, or severance pay computed under section 286a of title 14, as appropriate, except in a case in which—

(i) upon his request and in the discretion of the Secretary concerned, he is enlisted in the grade prescribed by the Secretary; or

(ii) he is serving on active duty in a grade above chief warrant officer, W-5, and he elects, with the consent of the Secretary concerned, to remain on active duty in that status.

(C) If on the date on which a warrant officer is to be separated under subparagraph (A) the warrant officer has at least 18 years of creditable active service, the warrant officer shall be retained on active duty until retired under paragraph (3) in the same manner as if the warrant officer had had at least 18 years of service on the applicable date under subparagraph (A) or (B) of that paragraph.

(5) A warrant officer who is subject to retirement or discharge under this subsection is not eligible for further consideration for promotion.

(6) In this subsection, the term "creditable active service" means active service that could be credited to a warrant officer under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(b) The Secretary concerned may defer, for not more than four months, the retirement or separation under this section of a warrant officer if, because of unavoidable circumstances, evalua-

tion of his physical condition and determination of his entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date on which he would otherwise be required to retire or be separated under this section.

(c) The Secretary concerned may defer, until such date as he prescribes, the retirement under subsection (a) of a warrant officer who is serving on active duty in a grade above chief warrant officer, W-5, and who elects to continue to so serve.

(d) If a warrant officer who also holds a grade above chief warrant officer, W-5, is retired or separated under subsection (a), his commission in the higher grade shall be terminated on the date on which he is so retired or separated.

(e)(1) A regular warrant officer subject to discharge or retirement under this section may, subject to the needs of the service, be continued on active duty if—

(A) in the case of a warrant officer in the grade of chief warrant officer, W-2, or chief warrant officer, W-3, the warrant officer is selected for continuation on active duty by a selection board convened under section 573(c) of this title; and

(B) in the case of a warrant officer in the grade of chief warrant officer, W-4, the warrant officer is selected for continuation on active duty by the Secretary concerned under such procedures as the Secretary may prescribe.

(2)(A) A warrant officer who is selected for continuation on active duty under this subsection but declines to continue on active duty shall be discharged, retired, or retained on active duty, as appropriate, in accordance with this section.

(B) A warrant officer in the grade of chief warrant officer, W-4, who is retained on active duty pursuant to procedures prescribed under paragraph (1)(B) is eligible for further consideration for promotion while remaining on active duty.

(3) Each warrant officer who is continued on active duty under this subsection, not subsequently promoted or continued on active duty, and not on a list of warrant officers recommended for continuation or for promotion to the next higher regular grade shall, unless sooner retired or discharged under another provision of law—

(A) be discharged upon the expiration of his period of continued service; or

(B) if he is eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which he completes his period of continued service.

Notwithstanding subparagraph (A), a warrant officer who would otherwise be discharged under such subparagraph and who is within two years of qualifying for retirement under section 1293 of this title shall, unless he is sooner retired or discharged under some other provision of law, be retained on active duty until he is qualified for retirement under that section and then be retired.

(4) The retirement or discharge of a warrant officer pursuant to this subsection shall be con-

sidered to be an involuntary retirement or discharge for purposes of any other provision of law.

(5) Continuation of a warrant officer on active duty under this subsection pursuant to the action of a selection board convened under section 573(c) of this title is subject to the approval of the Secretary concerned.

(6) The Secretary of Defense and the Secretary of Homeland Security, when the Coast Guard is not operating as a service in the Navy, shall prescribe regulations for the administration of this subsection.

(f) A warrant officer subject to discharge or retirement under this section, but against whom any action has been commenced with a view to trying the officer by court-martial, may be continued on active duty, without prejudice to such action, until the completion of such action.

(Added Pub. L. 102-190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1498; amended Pub. L. 103-160, div. A, title V, §505(a), Nov. 30, 1993, 107 Stat. 1645; Pub. L. 103-337, div. A, title V, §541(b)(5), Oct. 5, 1994, 108 Stat. 2765; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109-364, div. A, title V, §505(a), (b), Oct. 17, 2006, 120 Stat. 2179; Pub. L. 111-383, div. A, title V, §541, Jan. 7, 2011, 124 Stat. 4218.)

REFERENCES IN TEXT

Section 511 of the Career Compensation Act of 1949, referred to in subsec. (a)(6), is section 511 of act Oct. 12, 1949, ch. 681, which was formerly set out as a note below.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 564 of this title prior to repeal by Pub. L. 102-190, §1112(a).

AMENDMENTS

2011—Subsec. (f). Pub. L. 111-383 added subsec. (f).

2006—Subsec. (e)(1). Pub. L. 109-364, §505(a), substituted “continued on active duty if—” and subpars. (A) and (B) for “continued on active duty if he is selected for continuation on active duty by a selection board convened under section 573(c) of this title.”

Subsec. (e)(2). Pub. L. 109-364, §505(b), designated existing provisions as subpar. (A) and added subpar. (B).

2002—Subsec. (e)(6). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1994—Subsec. (a)(4)(B). Pub. L. 103-337, §541(b)(5)(A), inserted “, or severance pay computed under section 286a of title 14, as appropriate,” after “section 1174 of this title”.

Subsec. (e)(6). Pub. L. 103-337, §541(b)(5)(B), inserted “and the Secretary of Transportation, when the Coast Guard is not operating as a service in the Navy,” after “Secretary of Defense”.

1993—Subsec. (a)(4)(A). Pub. L. 103-160, §505(a)(1), inserted “(except as provided in subparagraph (C))” after “shall be separated”.

Subsec. (a)(4)(C). Pub. L. 103-160, §505(a)(2), added subpar. (C).

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 Pub. L. 103-337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103-337, set out as a note under section 571 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 505(b) of Pub. L. 103-160 provided that: “The amendments made by subsection (a) [amending this section] shall apply to warrant officers who have not been separated pursuant to section 580(a)(4) of title 10, United States Code, before the date of enactment of this Act [Nov. 30, 1993].”

RETIRED AND RETAINER PAY OF MEMBERS ON RETIRED LISTS OR RECEIVING RETAINER PAY

Act Oct. 12, 1949, ch. 681, title V, §511, 63 Stat. 829, as amended May 19, 1952, ch. 310, §4, 66 Stat. 80; Apr. 23, 1956, ch. 208, §1, 70 Stat. 114, set forth methods of computing retired pay, retirement pay, retainer pay, or equivalent pay on and after Oct. 1, 1949, for members of the uniformed services who had retired for reasons other than for physical disability before Oct. 1, 1949, members who had transferred to the Fleet Reserve or the Fleet Marine Corps Reserve before such date, and certain members of the Army Nurse Corps or the Navy Nurse Corps who had retired before such date, and provided that the amount of such pay would not exceed 75 percentum of the monthly basic pay upon which the computation had been based.

§ 580a. Enhanced authority for selective early discharges

(a) The Secretary of Defense may authorize the Secretary of a military department, during the period beginning on November 30, 1993, and ending on October 1, 1999, to take the action set forth in subsection (b) with respect to regular warrant officers of an armed force under the jurisdiction of that Secretary.

(b) The Secretary of a military department may, with respect to regular warrant officers of an armed force, when authorized to do so under subsection (a), convene selection boards under section 573(c) of this title to consider for discharge regular warrant officers on the warrant officer active-duty list—

(1) who have served at least one year of active duty in the grade currently held;

(2) whose names are not on a list of warrant officers recommended for promotion; and

(3) who are not eligible to be retired under any provision of law and are not within two years of becoming so eligible.

(c)(1) In the case of an action under subsection (b), the Secretary of the military department concerned may submit to a selection board convened pursuant to that subsection—

(A) the names of all regular warrant officers described in that subsection in a particular grade and competitive category; or

(B) the names of all regular warrant officers described in that subsection in a particular grade and competitive category who also are in particular year groups or specialties, or both, within that competitive category.

(2) The Secretary concerned shall specify the total number of warrant officers to be recommended for discharge by a selection board convened pursuant to subsection (b). That number may not be more than 30 percent of the number of officers considered—

(A) in each grade in each competitive category; or

(B) in each grade, year group, or specialty (or combination thereof) in each competitive category.

(3) The total number of regular warrant officers described in subsection (b) from any of the

armed forces (or from any of the armed forces in a particular grade) who may be recommended during a fiscal year for discharge by a selection board convened pursuant to the authority of that subsection may not exceed 70 percent of the decrease, as compared to the preceding fiscal year, in the number of warrant officers of that armed force (or the number of warrant officers of that armed force in that grade) authorized to be serving on active duty as of the end of that fiscal year.

(4) A warrant officer who is recommended for discharge by a selection board convened pursuant to subsection (b) and whose discharge is approved by the Secretary concerned shall be discharged on a date specified by the Secretary concerned.

(5) Selection of warrant officers for discharge under this subsection shall be based on the needs of the service.

(d) The discharge of any warrant officer pursuant to this section shall be considered involuntary for purposes of any other provision of law.

(e) This section applies to the Secretary of Homeland Security in the same manner and to the same extent as it applies to the Secretary of Defense. The Commandant of the Coast Guard shall take the action set forth in subsection (b) with respect to regular warrant officers of the Coast Guard.

(Added Pub. L. 103-160, div. A, title V, §504(a), Nov. 30, 1993, 107 Stat. 1644; amended Pub. L. 103-337, div. A, title V, §541(g), title X, §1070(a)(3), Oct. 5, 1994, 108 Stat. 2767, 2855; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

AMENDMENTS

2002—Subsec. (e). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1994—Subsec. (a). Pub. L. 103-337, §1070(a)(3), substituted “November 30, 1993,” for “the date of the enactment of this section”.

Subsec. (e). Pub. L. 103-337, §541(g), added subsec. (e).

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 section 541(g) of Pub. L. 103-337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103-337, set out as a note under section 571 of this title.

§ 581. Selective retirement

(a) A regular warrant officer who holds a warrant officer grade above warrant officer, W-1, and whose name is not on a list of warrant officers recommended for promotion and who is eligible to retire under any provision of law may be considered for retirement by a selection board convened under section 573(c) of this title. The Secretary concerned shall specify the maximum number of warrant officers that such a board may recommend for retirement.

(b) A warrant officer who is recommended for retirement under this section and whose retirement is approved by the Secretary concerned shall be retired, under any provision of law

under which he is eligible to retire, on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for retirement.

(c) The retirement of a warrant officer pursuant to this section shall be considered to be an involuntary retirement for purposes of any other provision of law.

(d)(1) The Secretary concerned shall prescribe regulations for the administration of this section. Such regulations shall require that when the Secretary concerned submits a list of regular warrant officers to a selection board convened under section 573(c) of this title to consider regular warrant officers for selection for retirement under this section, the list shall include each warrant officer on the active-duty list in the same grade or same grade and competitive category whose position on the active-duty list is between that of the most junior regular warrant officer in that grade whose name is submitted to the board and that of the most senior regular warrant officer in that grade whose name is submitted to the board.

(2) Such regulations shall establish procedures to exclude from consideration by the board any warrant officer who has been approved for voluntary retirement, or who is to be mandatorily retired under any other provision of law, during the fiscal year in which the board is convened or during the following fiscal year. An officer not considered by a selection board convened under section 573(c) of this title under such regulations because the officer has been approved for voluntary retirement shall be retired on the date approved for the retirement of such officer as of the convening date of such selection board unless the Secretary concerned approves a modification of such date in order to prevent a personal hardship for the officer or for other humanitarian reasons.

(e) The Secretary concerned may defer for not more than 90 days the retirement of an officer otherwise approved for early retirement under this section in order to prevent a personal hardship to the officer or for other humanitarian reasons. Any such deferral shall be made on a case-by-case basis considering the circumstances of the case of the particular officer concerned. The authority of the Secretary to grant such a deferral may not be delegated.

(Added Pub. L. 102-190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1500; amended Pub. L. 102-484, div. A, title X, §1052(5), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 103-337, div. A, title V, §541(b)(6), Oct. 5, 1994, 108 Stat. 2765; Pub. L. 104-106, div. A, title V, §504(a), Feb. 10, 1996, 110 Stat. 295.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-106 added subsec. (e).

1994—Subsec. (a). Pub. L. 103-337 struck out “in the Army, Navy, Air Force, or Marine Corps” after “A regular warrant officer”.

1992—Subsec. (d)(2). Pub. L. 102-484 substituted “board” for “Board” in two places in first sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see

section 541(h) of Pub. L. 103-337, set out as a note under section 571 of this title.

§ 582. Warrant officer active-duty list: exclusions

Warrant officers in the following categories are not subject to this chapter:

(1) Reserve warrant officers—

(A) on active duty as authorized under section 115(a)(1)(B) or 115(b)(1) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title; or

(B) on full-time National Guard duty.

(2) Retired warrant officers on active duty (other than retired warrant officers who were recalled to active duty before February 1, 1992, and have served continuously on active duty since that date).

(3) Students enrolled in the Army Physician's Assistant Program.

(Added Pub. L. 102-190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1500; amended Pub. L. 103-337, div. A, title V, §501(d), Oct. 5, 1994, 108 Stat. 2748; Pub. L. 104-106, div. A, title XV, §1501(c)(5), Feb. 10, 1996, 110 Stat. 498; Pub. L. 108-375, div. A, title IV, §416(i), Oct. 28, 2004, 118 Stat. 1869.)

AMENDMENTS

2004—Par. (1). Pub. L. 108-375 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Reserve warrant officers—

“(A) on active duty for training;

“(B) on active duty under section 12301(d) of this title in connection with organizing, administering, recruiting, instructing, or training the reserve components;

“(C) on active duty to pursue special work;

“(D) ordered to active duty under section 12304 of this title; or

“(E) on full-time National Guard duty.”

1996—Par. (1)(B). Pub. L. 104-106 substituted “section 12301(d)” for “section 672(d)”.

Par. (1)(D). Pub. L. 104-106 substituted “section 12304” for “section 673b”.

1994—Par. (2). Pub. L. 103-337 inserted before period at end “(other than retired warrant officers who were recalled to active duty before February 1, 1992, and have served continuously on active duty since that date)”.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1501(c) of Pub. L. 104-106 provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as originally enacted.

§ 583. Definitions

In this chapter:

(1) The term “promotion zone” means a promotion eligibility category consisting of officers on a warrant officer active-duty list in the same grade (or the same grade and competitive category) who—

(A) in the case of grades below chief warrant officer, W-5, have neither (i) failed of selection for promotion to the next higher grade, nor (ii) been removed from a list of warrant officers recommended for promotion to that grade (other than after having been placed on that list after a selection from below the promotion zone); and

(B) are senior to the warrant officer designated by the Secretary concerned to be the

junior warrant officer in the promotion zone eligible for promotion to the next higher grade.

(2) The term “warrant officers above the promotion zone” means a group of officers on a warrant officer active-duty list in the same grade (or the same grade and competitive category) who—

(A) are eligible for consideration for promotion to the next higher grade;

(B) are in the same grade as warrant officers in the promotion zone; and

(C) are senior to the senior warrant officer in the promotion zone.

(3) The term “warrant officers below the promotion zone” means a group of officers on a warrant officer active-duty list in the same grade (or the same grade and competitive category) who—

(A) are eligible for consideration for promotion to the next higher grade;

(B) are in the same grade as warrant officers in the promotion zone; and

(C) are junior to the junior warrant officer in the promotion zone.

(4) The active-duty list referred to in section 573(b) of this title includes the active-duty promotion list established by section 41a of title 14.

(Added Pub. L. 102-190, div. A, title XI, §1112(a), Dec. 5, 1991, 105 Stat. 1501; amended Pub. L. 103-337, div. A, title V, §541(f)(7), Oct. 5, 1994, 108 Stat. 2767.)

AMENDMENTS

1994—Par. (4). Pub. L. 103-337 added par. (4).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective on the first day of the fourth month beginning after Oct. 5, 1994, see section 541(h) of Pub. L. 103-337, set out as a note under section 571 of this title.

CHAPTER 34—APPOINTMENTS AS RESERVE OFFICERS

Sec. 591. Reference to chapters 1205 and 1207.

AMENDMENTS

1994—Pub. L. 103-337, div. A, title XVI, §1662(d)(3), Oct. 5, 1994, 108 Stat. 2991, amended analysis generally, substituting item 591 for former items 591 to 600a.

1992—Pub. L. 102-484, div. A, title V, §515(b), Oct. 23, 1992, 106 Stat. 2407, added item 596.

1986—Pub. L. 99-661, div. A, title V, §508(d)(1)(B), Nov. 14, 1986, 100 Stat. 3867, added item 600a.

1980—Pub. L. 96-513, title I, §105, Dec. 12, 1980, 94 Stat. 2849, substituted “34” for “35” as chapter number.

1958—Pub. L. 85-861, §1(11), Sept. 2, 1958, 72 Stat. 1440, added item 592 and struck out item 596 “Officers: promotion”.

§ 591. Reference to chapters 1205 and 1207

Provisions of law relating to appointments of reserve officers other than warrant officers are set forth in chapter 1205 of this title (beginning with section 12201). Provisions of law relating to appointments and promotion of reserve warrant officers are set forth in chapter 1207 (beginning with section 12241).

(Added Pub. L. 103-337, div. A, title XVI, §1662(d)(3), Oct. 5, 1994, 108 Stat. 2991.)