of any section of this title shall not be construed so as to prevent any officer or enlisted member from being placed on the retired list with the highest grade or rating and the highest retired pay to which such officer or enlisted member may be entitled under the provisions of any other section of this title or under the provisions of any other law. In no case shall the retired pay of an officer or enlisted member exceed 75 percent of the sum of the active-duty pay and all permanent additions thereto, including longevity credit to which the officer or enlisted member concerned is entitled, of the grade or rating on which his pay is computed.''

1984—Pub. L. 98–557 substituted reference to enlisted member for reference to enlisted man in four places.

§ 424a. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution

Under procedures prescribed by the Secretary, the Secretary may suspend the payment of the retired pay of a member or former member during periods in which the member willfully remains outside the United States to avoid criminal prosecution or civil liability. The procedures shall address the types of criminal offenses and civil proceedings for which the procedures may be used, including the offenses specified in section 8312 of title 5, and the manner by which a member, upon the return of the member to the United States, may obtain retired pay withheld during the member's absence.

(Added Pub. L. 107–295, title IV, § 444(a), Nov. 25, 2002, 116 Stat. 2132.)

§ 425. Board for Correction of Military Records deadline

(a) DEADLINE FOR COMPLETION OF ACTION.—The Secretary shall complete processing of an application for correction of military records under section 1552 of title 10 by not later than 10 months after the date the Secretary receives the completed application.

(b) REMEDIES DEEMED EXHAUSTED.—Ten months after a complete application for correction of military records is received by the Board for Correction of Military Records of the Coast Guard, administrative remedies are deemed to have been exhausted, and—

(1) if the Board has rendered a recommended decision, its recommendation shall be final agency action and not subject to further review or approval within the department in which the Coast Guard is operating; or

(2) if the Board has not rendered a recommended decision, agency action is deemed to have been unreasonably delayed or withheld and the applicant is entitled to—

(A) an order under section 706(1) of title 5, directing final action be taken within 30 days from the date the order is entered; and

(B) from amounts appropriated to the department in which the Coast Guard is operating, the costs of obtaining the order, including a reasonable attorney's fee.

(Added Pub. L. 104–324, title II, § 209(a), Oct. 19, 1996, 110 Stat. 3914.)

PRIOR PROVISIONS

A prior section 425, act Aug. 4, 1949, ch. 393, 63 Stat. 525, related to retiring boards, prior to repeal by act Aug. 3, 1950, ch. 536, § 36, 64 Stat. 408. See section 1216 of Title 10, Armed Forces.

EFFECTIVE DATE

Pub. L. 104–324, § 209(d), Oct. 19, 1996, 110 Stat. 3914, provided that: ''This section [enacting this section and provisions set out as a note below] shall be effective on and after June 12, 1990.''

SPECIAL RIGHT OF APPLICATIONS AFTER DEADLINE FOR COMPLETION OF BOARD ACTION

Pub. L. 104–324, § 209(c), Oct. 19, 1996, 110 Stat. 3914, provided that: ''This section [enacting this section and provisions set out as a note above] applies to any applicant who had an application filed with or pending before the Board or the Secretary of the department in which the Coast Guard is operating on or after June 12, 1990, who files with the Board for Correction of Military Records of the Coast Guard an application for relief under the amendment made by subsection (a) [enacting this section]. If a recommended decision was modified or reversed on review with final agency action occurring after expiration of the 10-month deadline under that amendment, an applicant who so requests shall have the order in the final decision vacated and receive the relief granted in the recommended decision if the Coast Guard has the legal authority to grant such relief. The recommended decision shall otherwise have no effect as precedent.''

§ 426. Emergency leave retention authority

(a) IN GENERAL.—A duty assignment for an active duty member of the Coast Guard in support of a declaration of a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or in response to a spill of national significance shall be treated, for the purpose of section 701(f)(2) of title 10, as a duty assignment in support of a contingency operation.

(b) DEFINITIONS.—In this section:

(1) SPILL OF NATIONAL SIGNIFICANCE.—The term ''spill of national significance'' means a discharge of oil or a hazardous substance that is declared by the Commandant to be a spill of national significance.

(2) DISCHARGE.—The term ''discharge'' has the meaning given that term in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701).

(Added Pub. L. 111–281, title II, § 207(a), Oct. 15, 2010, 124 Stat. 2912.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

EFFECTIVE DATE

Pub. L. 111–281, title II, § 207(c), Oct. 15, 2010, 124 Stat. 2912, provided that: ''The amendments made by this section [enacting this section] shall be deemed to have been enacted on April 19, 2010.''

SPECIAL PROVISIONS

[§ 431. Repealed. Pub. L. 99–640, § 10(a)(6)(A), Nov. 10, 1986, 100 Stat. 3549]

Section, acts Aug. 4, 1949, ch. 393, 63 Stat. 526; Aug. 3, 1950, ch. 536, § 24, 64 Stat. 407, related to personnel of former Life Saving Service.

SAVINGS PROVISION

Section 10(a)(6)(A) of Pub. L. 99–640 provided in part that the repeal of sections 431, 433, 434, and 438 of this