

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

Pub. L. 103-337, div. A, title V, §541(a)(1), Oct. 5, 1994, 108 Stat. 2764, 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.]

Pub. L. 102-190, div. A, title XI, §1111(a), Dec. 5, 1991, 105 Stat. 1491, provided that: “The grade of chief war-

rant 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 mem-

bership 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 ap-

pointment 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