

(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.

EFFECTIVE DATE

Section 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.

§ 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.

EFFECTIVE DATE

Section 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.

§ 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.

EFFECTIVE DATE

Section 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.

§ 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).

EFFECTIVE DATE

Section 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.

§ 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 pro-