

Sec.

8146. Navy and Marine Corps: temporary appointments of officers designated for limited duty.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, div. A, title V, § 509(b), Jan. 1, 2021, 134 Stat. 3586, struck out item 8137 “Regular Navy: officers designated for engineering duty, aeronautical engineering duty, and special duty”.

2018—Pub. L. 115-232, div. A, title VIII, § 807(e)(2)(B), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 539 of this title as this chapter and items 5582, 5585, 5587, 5587a, 5589, and 5596 as 8132, 8135, 8137, 8138, 8139, and 8146, respectively.

1994—Pub. L. 103-337, div. A, title XVI, § 1673(b)(2), Oct. 5, 1994, 108 Stat. 3016, struck out item 5600 “Naval Reserve and Marine Corps Reserve: service credit upon original appointment”.

1991—Pub. L. 102-190, div. A, title XI, § 1113(d)(2)(B), Dec. 5, 1991, 105 Stat. 1502, struck out “warrant officers and” before “officers designated” in item 5596.

1981—Pub. L. 97-22, § 10(b)(7), July 10, 1981, 95 Stat. 137, struck out item 5573a “Regular Navy and Regular Marine Corps: from reserve and temporary officers” and in item 5596 substituted “Navy and Marine Corps: temporary appointments of warrant officers and officers designated for limited duty” for “Navy and Marine Corps: temporary appointments”.

1980—Pub. L. 96-513, title V, § 503(28), Dec. 12, 1980, 94 Stat. 2913, struck out items 5571 “Regular Navy and Regular Marine Corps: citizenship of officers”, 5572 “Regular Navy and Regular Marine Corps: appointing power”, 5573 “Regular Navy and Regular Marine Corps: from graduates of the Naval Academy”, 5574 “Regular Navy: Medical Corps”, 5575 “Regular Navy: Supply Corps”, 5576 “Regular Navy: Chaplain Corps”, 5577 “Regular Navy: Civil Engineer Corps”, 5578 “Regular Navy: Dental Corps”, 5578a “Regular Navy: Judge Advocate General’s Corps”, 5579 “Regular Navy: Medical Service Corps”, 5580 “Regular Navy: Nurse Corps”, 5581 “Naval Reserve: Medical Corps, Dental Corps, Medical Service Corps: women”, 5583 “Regular Marine Corps: from non-commissioned officers”, 5584 “Regular Marine Corps: from former officers”, 5586 “Regular Navy and Regular Marine Corps: from warrant officers and enlisted members”, 5590 “Regular Navy and Regular Marine Corps: women”, 5591 “Regular Navy: Supply Corps: maximum number of ensigns appointed annually”, 5592 “Regular Navy: Civil Engineer Corps: maximum number of ensigns appointed annually”, 5593 “Regular Navy: Medical Service Corps: maximum number of ensigns appointed annually”, 5594 “Regular Navy: Nurse Corps: maximum number of ensigns appointed annually”, 5595 “Regular Marine Corps: restriction on appointments of former midshipmen and cadets”, 5597 “Navy and Marine Corps: temporary appointments in time of war or national emergency”, 5598 “Naval Reserve and Marine Corps Reserve: temporary appointments in time of war or national emergency”, 5599 “Medical Corps: acting appointments for temporary service”, and 5601 “Naval Reserve: Nurse Corps: men”.

1967—Pub. L. 90-179, § 5(5), Dec. 8, 1967, 81 Stat. 548, added items 5578a and 5587a.

1961—Pub. L. 87-123, § 5(9), Aug. 3, 1961, 75 Stat. 265, struck out item 5588 “Regular Marine Corps: officers designated for supply duty”.

1958—Pub. L. 85-861, § 1(118)(B), (121)(B), Sept. 2, 1958, 72 Stat. 1493, 1495, added items 5573a, 5600, and 5601.

§ 8132. Regular Navy: transfers, line and staff corps

(a) A regular officer of the Navy in a staff corps in a grade not above lieutenant commander may be appointed in the line of the Navy to the same grade.

(b) A regular officer in the line of the Navy in a grade not above lieutenant commander may be appointed to the same grade in a staff corps under regulations prescribed by the Secretary of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 324, § 5582; Pub. L. 96-513, title III, § 373(d), Dec. 12, 1980, 94 Stat. 2903; renumbered § 8132, Pub. L. 115-232, div. A, title VIII, § 807(b)(4), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5582(a)	34 U.S.C. 14 (less statement of appointing authority).	July 22, 1935, ch. 402, § 7 (less statement of appointing authority), 49 Stat. 490.
5582(b)	34 U.S.C. 13 (less statement of appointing authority).	July 22, 1935, ch. 402, § 6 (less statement of appointing authority), 49 Stat. 490.

The words “active list” are inserted so that this section will apply only to officers of the Regular Navy holding permanent appointments in grades above commissioned warrant officer, as this was the intent of the source statute. The words “same grade” are substituted for the words “corresponding rank and grade” in subsection (a) and for the words “corresponding grade” in subsection (b), since, under § 405 of the Officer Personnel Act of 1947 (34 U.S.C. 10a), the grades in the staff corps are the same as those in the line. The words “transfer and” and “transferred and” are omitted as surplusage.

In subsection (a) the words “and precedence in the line” are omitted as surplusage.

In subsection (b) reference to the Construction Corps is omitted because that corps was abolished by the Act of June 25, 1940, ch. 420, § 1, 54 Stat. 528.

The word “male” is inserted in both subsections to limit their application to men. Authority to appoint women is covered in § 5590 of this title.

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 5582 of this title as this section.

1980—Subsec. (a). Pub. L. 96-513 substituted “A regular officer” for “Any male officer on the active list” and “in the line” for “to the active list in the line” and deleted provision assigning an officer so appointed the lineal position he would have held had he originally been appointed in and had he remained in the line and provision that such an officer was to be considered an additional number in each grade in which he served.

Subsec. (b). Pub. L. 96-513 substituted “A regular officer” for “Any male officer on the active list” and “the same grade in a staff corps under regulations prescribed by the Secretary of Defense” for “the active list of the Navy in the Supply Corps or the Civil Engineer Corps, in the same grade, without regard to his age.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

§ 8135. Regular Marine Corps: order of filling vacancies in grade of second lieutenant

Vacancies on the active-duty list of the Marine Corps in the grade of second lieutenant shall be filled, so far as practicable, first, from members of the graduating class of the Naval Academy; second, from meritorious noncommissioned officers of the Regular Marine Corps; and third, from other persons.

(Aug. 10, 1956, ch. 1041, 70A Stat. 324, §5585; Pub. L. 96-513, title V, §503(29), Dec. 12, 1980, 94 Stat. 2913; renumbered §8135, Pub. L. 115-232, div. A, title VIII, §807(b)(4), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5585	34 U.S.C. 634.	Mar. 3, 1899, ch. 413, §19, 30 Stat. 1008; Mar. 3, 1903, ch. 1010, 32 Stat. 1198 (1st proviso in 5th par., 48th word to end of proviso).

The words “from other persons” are substituted for the words “from civil life” because 34 U.S.C. 1020e authorizes the appointment of graduates of the NROTC program as well as of other persons in civil life. Such graduates are, properly, persons in “civil life”, since they are members of the Naval Reserve who are not on active duty. However, since the status of members of the NROTC is not always clear, the statement of the class is expanded.

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 5585 of this title as this section.

1980—Pub. L. 96-513 substituted “active-duty list” for “active list”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

[§ 8137. Repealed. Pub. L. 116-283, div. A, title V, § 509(a), Jan. 1, 2021, 134 Stat. 3586]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 325, §5587; Pub. L. 90-179, §5(2), Dec. 8, 1967, 81 Stat. 547; Pub. L. 90-386, §1(5), July 5, 1968, 82 Stat. 293; Pub. L. 96-513, title III, §324, Dec. 12, 1980, 94 Stat. 2893; renumbered §8137, Pub. L. 115-232, div. A, title VIII, §807(b)(4), Aug. 13, 2018, 132 Stat. 1834, related to regular Navy: officers designated for engineering duty, aeronautical engineering duty, and special duty.

§ 8138. Regular Marine Corps: judge advocates

With the approval of the Secretary of the Navy, any regular officer on the active-duty list of the Marine Corps who is qualified under section 827(b) of this title may, upon his application, be designated as a judge advocate.

(Added Pub. L. 90-179, §5(3), Dec. 8, 1967, 81 Stat. 548, §5587a; amended Pub. L. 96-513, title V,

§503(30), Dec. 12, 1980, 94 Stat. 2913; renumbered §8138, Pub. L. 115-232, div. A, title VIII, §807(b)(4), Aug. 13, 2018, 132 Stat. 1834.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 5587a of this title as this section.

1980—Pub. L. 96-513 struck out designation “(a)” before “With the approval of the Secretary”, substituted “active-duty list” for “active list”, and struck out subsec. (b) which provided that, for the purposes of determining lineal position, permanent grade, seniority in permanent grade, and eligibility for promotion, a person appointed to the active list of the Marine Corps with a view to designation as a judge advocate could be credited with the amount of service prescribed by the Secretary of the Navy, but not more than three years.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

§ 8139. Regular Navy and Regular Marine Corps: officers designated for limited duty

(a) Original appointments as regular officers of the Navy in a grade below lieutenant commander in the line and in staff corps established by the Secretary of the Navy under section 8090(b) of this title and designated by the Secretary for the purposes of this section may be made from—

- (1) warrant officers;
- (2) chief petty officers; and
- (3) first-class petty officers;

in the Regular Navy, for the performance of duty in the technical fields indicated by their warrants or ratings.

(b) Original appointments as regular officers of the Marine Corps in a grade below major may be made from—

- (1) warrant officers;
- (2) master sergeants; and
- (3) technical sergeants;

in the Regular Marine Corps, for the performance of duty in the technical fields in which they are proficient.

(c)(1) An officer described in paragraph (2) may be given an original appointment as a regular officer of the Navy or the Marine Corps, as the case may be, in the grade, and with the date of rank in that grade, in which the officer is serving on the day before such original appointment.

(2) This subsection applies to an officer of the Navy and Marine Corps who—

- (A) is on the active-duty list;
- (B) holds a permanent enlisted or warrant officer grade;
- (C) is designated for limited duty under subsection (a) of section 8146 of this title; and
- (D) is serving in the grade of lieutenant commander or commander, or in the grade of