

§ 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 Repealed.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