

those sections, the creation of the Department of the Air Force and the reorganization of the Department of the Army make it impracticable to continue to relate Navy Department positions to former War Department positions. This treatment of 5 U.S.C. 441 does not, however, completely cover the question of the rank, in relation to other officers in the Navy and other services, of a captain or rear admiral of the lower half who by virtue of his position becomes entitled to the rank, pay, and allowances of a rear admiral of the upper half. Under 34 U.S.C. 241a officers holding *commissions* in the grade of rear admiral rank with major generals if entitled to the pay of the upper half and with brigadier generals if entitled to the pay of the lower half. Under 5 U.S.C. 441 bureau chiefs and the Judge Advocate General rank with major generals regardless of the grade in which they hold commissions and, therefore, also rank all officers of the Navy who are ranked by major generals. This fact, obscured by the substitution of Navy rank in the codification of 5 U.S.C. 441, is set out in subsection (c).

#### AMENDMENTS

2018—Pub. L. 115–232 renumbered section 5501 of this title as this section.

1991—Pub. L. 102–190 substituted “W–5” for “W–4” in section catchline and text.

1985—Par. (4), Pub. L. 99–145 substituted “Rear admiral (lower half)” for “Commodore”.

1981—Par. (4), Pub. L. 97–86 substituted “Commodore” for “Commodore admiral”.

1980—Pub. L. 96–513 struck out subsec. (a) designation from provisions formerly classified as such and, as so redesignated, inserted commodore admiral in the listing of commissioned grades above the grade of chief warrant officer, W–4 and struck out former subsecs. (b) and (c) which related to the grades of commodore and rear admiral, respectively.

#### 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 1991 AMENDMENT

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–86 effective Sept. 15, 1981, see section 405(f) of Pub. L. 97–86, set out as a note under section 101 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.

#### TRANSITION PROVISIONS OF DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For transition provisions relating to the new commodore admiral grade established in the Navy, see section 614 of Pub. L. 96–513, set out as a note under section 611 of this title.

### § 8112. Marine Corps: grades above chief warrant officer, W–5

The commissioned grades in the Marine Corps above the grade of chief warrant officer, W–5, are:

- (1) General.
- (2) Lieutenant general.

- (3) Major general.
- (4) Brigadier general.
- (5) Colonel.
- (6) Lieutenant colonel.
- (7) Major.
- (8) Captain.
- (9) First lieutenant.
- (10) Second lieutenant.

(Aug. 10, 1956, ch. 1041, 70A Stat. 314, § 5502; Pub. L. 102–190, div. A, title XI, § 1131(8)(A), Dec. 5, 1991, 105 Stat. 1506; renumbered § 8112, Pub. L. 115–232, div. A, title VIII, § 807(b)(2), Aug. 13, 2018, 132 Stat. 1834.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
5502 .....	34 U.S.C. 651. 34 U.S.C. 629.	R.S. 1603. July 1, 1918, ch. 114, 40 Stat. 715 (1st par.).
	34 U.S.C. 623b(a) (as applicable to grade of lieutenant general).	Aug. 7, 1947, ch. 512, § 415(a) (as applicable to grade of lieutenant general), 61 Stat. 876.
	34 U.S.C. 622 (as applicable to grade of general).	Jan. 20, 1942, ch. 10, § 1, 56 Stat. 10; Aug. 7, 1947, ch. 512, § 429 (as applicable to grade of general), 61 Stat. 880.

R.S. 1603 provides that officers of the Marine Corps shall be on the same footing as officers of similar grades in the Army. Recognition is made of the grades existing in the Army for the purpose of listing the grades authorized for the Marine Corps.

The provisions of the Act of July 1, 1918, ch. 114, 40 Stat. 715 (1st par.), pertaining to the appointment of a major general in addition to the Major General Commandant and a temporary major general were superseded by the Act of May 29, 1934, ch. 367, § 2, 48 Stat. 812, which in turn was repealed by § 436(e) of the Officer Personnel Act of 1947, 61 Stat. 882.

#### AMENDMENTS

2018—Pub. L. 115–232 renumbered section 5502 of this title as this section.

1991—Pub. L. 102–190 substituted “W–5” for “W–4” in section catchline and text.

#### 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 1991 AMENDMENT

Amendment by Pub. L. 102–190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102–190, set out as a note under section 521 of this title.

### § 8113. Navy and Marine Corps: warrant officer grades

The warrant officer grades in the Navy and the Marine Corps are:

- (1) Chief warrant officer, W–5.
- (2) Chief warrant officer, W–4.
- (3) Chief warrant officer, W–3.
- (4) Chief warrant officer, W–2.
- (5) Warrant officer, W–1.

(Aug. 10, 1956, ch. 1041, 70A Stat. 314, § 5503; Pub. L. 102–190, div. A, title XI, § 1131(9), Dec. 5, 1991, 105 Stat. 1506; renumbered § 8113, Pub. L. 115–232, div. A, title VIII, § 807(b)(2), 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>
5503 .....	34 U.S.C. 135a(a) (less last sentence).	May 29, 1954, ch. 249, §3(a) (less 3d and last sentence), 68 Stat. 157.

This section is included in subtitle C for completeness and clarity. In duplicates, in part, §§ 555 and 597 of this title, which cover, respectively, the “permanent regular warrant officer grades” and the “permanent reserve warrant officer grades” in the armed forces. The concept that regular grades differ from reserve grades and that a grade held under a permanent appointment differs from the grade of the same name held under a temporary appointment is foreign to the naval service. In the Navy and the Marine Corps, all officers serving, for example, in the grade of chief warrant officer, W-4, are considered to be serving in the same grade regardless of whether they are Regulars or Reserves and regardless of whether they are temporary or permanent officers holding temporary or permanent appointments in that grade. This section, therefore, lists the four warrant officer grades as applicable to all warrant officers of the naval service.

Reference to the pay grades corresponding to the military grades is omitted as unnecessary for the purpose of this section.

## AMENDMENTS

2018—Pub. L. 115-232 renumbered section 5503 of this title as this section.

1991—Pub. L. 102-190 added par. (1) and redesignated former pars. (1) to (4) as (2) to (5), respectively.

## 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 1991 AMENDMENT

Amendment by Pub. L. 102-190 effective Feb. 1, 1992, see section 1132 of Pub. L. 102-190, set out as a note under section 521 of this title.

**§ 8118. Rank of line and staff corps officers of the Navy and officers of the Marine Corps**

Except for an officer entitled to a rank higher than his grade, line and staff corps officers of the Navy serving in the same grade and officers of the Marine Corps serving in the corresponding grade rank among themselves according to their respective dates of rank in grade whether or not they are on an active-duty list.

(Aug. 10, 1956, ch. 1041, 70A Stat. 317, §5508; Pub. L. 90-179, §4, Dec. 8, 1967, 81 Stat. 547; Pub. L. 96-513, title V, §503(27), Dec. 12, 1980, 94 Stat. 2913; renumbered §8118, Pub. L. 115-232, div. A, title VIII, §807(b)(2), 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>
5508 .....	34 U.S.C. 306f(d)(2).	Aug. 7, 1947, ch. 512, §311(d)(2), 61 Stat. 852; Aug. 5, 1949, ch. 402, §1(c), 63 Stat. 568.

The word “rank” is substituted for the words “take precedence” throughout the section for uniformity of expression.

In subsection (a) the first sentence is broadened to include officers of the Marine Corps and officers not on a lineal list. Inclusion of the Marine Corps is possible be-

cause the sentence reflects the rule referred to by the Attorney General (25 Op. Atty. Gen. 517) as “an unwritten law of the Army and Navy” as to relative rank between officers in different services. Officers not on a lineal list may properly be included since the statement is consistent with the provisions for assigning lineal position to such officers when they become entitled to be placed on a list.

## AMENDMENTS

2018—Pub. L. 115-232 renumbered section 5508 of this title as this section.

1980—Pub. L. 96-513 struck out designation “(a)” before “Except for an officer”, substituted “an active-duty list” for “a lineal list”, struck out sentence which had provided that a staff corps officer with the same date of rank as his running mate ranked above all line and staff corps officers junior to his running mate, and struck out subsec. (b) which had provided for a hierarchy of 9 categories of officers of the Navy to be used in ranking officers of the Navy on active duty serving in the same grade and having the same date of rank in that grade.

1967—Subsec. (b). Pub. L. 90-179 added par. (6) and renumbered former pars. (6), (7), and (8) as pars. (7), (8), and (9), respectively.

## 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.

**CHAPTER 813—ENLISTMENTS**

Sec.

8120. Expiration; rights of member.

## AMENDMENTS

2018—Pub. L. 115-232, div. A, title VIII, §807(e)(2)(B), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838 redesignated chapter 537 of this title as this chapter and item 5540 as 8120.

1968—Pub. L. 90-235, §2(a)(3), (b), Jan. 2, 1968, 81 Stat. 756, struck out item 5531 “Recruiting campaigns: use of advertising agencies”, item 5532 “Prohibited classes”, item 5533 “Minors”, item 5534 “Term: grade”, item 5535 “Evidence of age required for certain enlistments of minors”, item 5537 “Extension: during disability incident to service”, item 5538 “Extension: during war or national emergency”, and item 5539 “Extension: voluntary, period and benefits.”

1958—Pub. L. 85-861, §1(115), Sept. 2, 1958, 72 Stat. 1493, struck out item 5536 “Extension: time lost through misconduct or unauthorized absence”.

**§ 8120. Expiration; rights of member**

(a) The senior officer present afloat in foreign waters shall send to the United States by Government or other transportation as soon as possible each enlisted member of the naval service who is serving on a naval vessel, whose term of enlistment has expired, and who desires to return to the United States. However, when the senior officer present afloat considers it essential to the public interest, he may retain such a member on active duty until the vessel returns to the United States.

(b) Each member retained under this section—

(1) shall be discharged not later than 30 days after his arrival in the United States; and