

temporary appointments in warrant officer grades and of certain officers designated for limited duty for provisions authorizing such appointments only when the number of male officers serving on active duty in the grade of ensign and above in the line of the Navy exceeded the number of male officers on the active list in the line of the Navy.

Subsec. (b). Pub. L. 96-513 redesignated subsec. (f) as (b) and struck out former subsec. (b) which described persons eligible for temporary appointments in the Regular Navy, except in the Nurse Corps, in grades not above lieutenant and in the Regular Marine Corps in grades not above captain.

Subsec. (c). Pub. L. 96-513 redesignated subsec. (g) as (c), struck out provision restricting temporary appointments to male members of the naval service, and struck out former subsec. (c) which described persons eligible for temporary appointments in the Naval Reserve, except in the Nurse Corps, in grades not above lieutenant and in the Marine Corps Reserve in grades not above captain.

Subsec. (d). Pub. L. 96-513 substituted provisions authorizing the Secretary of the Navy to temporarily appoint officers designated for limited duty under subsec. (a)(2) in a higher grade not above commander in the Regular Navy or lieutenant colonel in the Regular Marine Corps for provisions authorizing the Secretary to make temporary appointments in warrant officer grades.

Subsec. (e). Pub. L. 96-513 redesignated subsec. (h) as (e), substituted "Secretary of the Navy" for "President", and struck out former subsec. (e) which provided that the number of persons appointed in the Regular Navy under this section in grades above chief warrant officer, W-4, could not exceed the difference between the actual number of officers on the active list of the Navy in the line or in the staff corps concerned and the authorized number of such officers.

Subsecs. (f) to (h). Pub. L. 96-513 redesignated subsecs. (f), (g), and (h) as (b), (c), and (e), 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 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 UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96-513 and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96-513, see section 601 et seq. of Pub. L. 96-513, set out as a note under section 611 of this title.

#### DELEGATION OF FUNCTIONS

For delegation to Secretary of Defense of authority vested in President by section 3c(g) of former Title 34, see Ex. Ord. No. 10621, July 1, 1955, 20 F.R. 4759, set out as a note under section 301 of Title 3, The President.

### CHAPTER 821—OFFICERS IN COMMAND

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8162. Aviation commands: eligibility.

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#### AMENDMENTS

2018—Pub. L. 115-232, div. A, title VIII, §807(e)(2)(A), (f)(1), Aug. 13, 2018, 132 Stat. 1837, 1838, redesignated chapter 551 of this title as this chapter and items 5942 to 5949, 5951, and 5952 as 8162 to 8169, 8171, and 8172, respectively.

1980—Pub. L. 96-513, title V, §503(41), Dec. 12, 1980, 94 Stat. 2914, struck out item 5955 "Retired officers withdrawn from command".

1968—Pub. L. 90-235, §5(a)(4), (b)(2), Jan. 2, 1968, 81 Stat. 761, struck out item 5941 "Assignment to command: regulations", item 5950 "Exemption from Supply Corps duties", item 5953 "Executive officer: assignment; authority", and item 5954 "Command: when different commands of Marine Corps and Army or Air Force join".

#### § 8162. Aviation commands: eligibility

(a)(1) To be eligible to command an aircraft carrier or an aircraft tender, an officer must be an officer in the line of the Navy who is designated as a naval aviator or naval flight officer and who is otherwise qualified.

(2) Paragraph (1) does not apply to command of a nuclear-powered aircraft carrier that has been inactivated for the purpose of permanent decommissioning and disposal.

(b) To be eligible to command a naval aviation school, a naval air station, or a naval aviation unit organized for flight tactical purposes, an officer must be an officer in the line of the Navy designated as a naval aviator or naval flight officer.

(c) To be eligible to command a Marine Corps aviation school, a Marine Corps air station, or a Marine Corps aviation unit organized for flight tactical purposes, an officer must be an officer of the Marine Corps designated as a naval aviator or naval flight officer.

(Aug. 10, 1956, ch. 1041, 70A Stat. 371, §5942; Pub. L. 91-198, §1(1), Feb. 26, 1970, 84 Stat. 15; Pub. L. 113-291, div. A, title V, §507, Dec. 19, 2014, 128 Stat. 3357; renumbered §8162, Pub. L. 115-232, div. A, title VIII, §807(b)(5), Aug. 13, 2018, 132 Stat. 1834.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
5942(a) .....	34 U.S.C. 735 (5th par.).	June 24, 1926, ch. 668, §3 (5th par.), 44 Stat. 767.
5942(b) .....	34 U.S.C. 735 (4th par.).	June 24, 1926, ch. 668, §3 (4th par.), 44 Stat. 767.
5942(c) .....	34 U.S.C. 735 (7th par.).	June 24, 1926, ch. 668, §3 (7th par.), 44 Stat. 767.

The last proviso of § 8 of the Act of July 12, 1921, ch. 44 (34 U.S.C. 734), was superseded by paragraphs 4, 5, and 7 of § 3 of the Act of June 24, 1926, ch. 668 (34 U.S.C. 735), insofar as ships and activities mentioned in those paragraphs are concerned. The requirements of this section are stated as conditions of eligibility for clarity.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 5942 of this title as this section.

2014—Subsec. (a). Pub. L. 113-291 designated existing provisions as par. (1) and added par. (2).

1970—Subsec. (a). Pub. L. 91-198 substituted “naval flight officer” for “naval aviation observer”.

Subsecs. (b), (c). Pub. L. 91-198 inserted “or naval flight officer” after “naval aviator”.

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.

§ 8163. Naval shipyards

Commanders of naval shipyards may be selected by the President from officers of the Navy not below the grade of commander.

(Aug. 10, 1956, ch. 1041, 70A Stat. 371, §5943; renumbered §8163, Pub. L. 115-232, div. A, title VIII, §807(b)(5), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row 5943: 34 U.S.C. 501, R.S. 1542.

The words “Commanders of naval shipyards” are substituted for the words “commandants of the several navy yards” to conform to present terminology. The words “of the Navy” are inserted for clarity.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 5943 of this title as this section.

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.

§ 8164. Marine Corps officers: limitation on power to command

Officers of the Marine Corps may not command vessels or naval shipyards.

(Aug. 10, 1956, ch. 1041, 70A Stat. 371, §5944; renumbered §8164, Pub. L. 115-232, div. A, title VIII, §807(b)(5), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row 5944: 34 U.S.C. 713, R.S. 1617.

The words “of the United States” are omitted as surplusage. The word “command” is substituted for the words “exercise command over any”.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 5944 of this title as this section.

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.

§ 8165. Staff corps officers: limitation on power to command

An officer in a staff corps may command only such activities as are appropriate to his corps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 371, §5945; Pub. L. 90-130, §1(21), Nov. 8, 1967, 81 Stat. 380; renumbered §8165, Pub. L. 115-232, div. A, title VIII, §807(b)(5), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row 5945: 34 U.S.C. 253, 34 U.S.C. 30h (1st 23 words), 34 U.S.C. 43d (proviso). Source (Statutes at Large) includes R.S. 1488, Mar. 3, 1899, ch. 413, §7 (3d proviso of 2d sentence, and 3d sentence), 30 Stat. 1006; June 24, 1910, ch. 378, 36 Stat. 614 (3d proviso); Aug. 4, 1947, ch. 459, §207 (1st 23 words), 61 Stat. 738; renumbered §206, Aug. 7, 1947, ch. 512, §433(b), 61 Stat. 881; Apr. 16, 1947, ch. 38, §205 (proviso), 61 Stat. 48.

The provision of §7 of the Act of March 3, 1899 (supra), relating to relative rank is omitted as executed. The provision that the rank conferred upon staff corps officers shall not change their titles is omitted because these titles were abolished by §405 of the Officer Personnel Act of 1947 (34 U.S.C. 10a) and the corresponding line grades substituted. The cited proviso in the Act of June 24, 1910 (34 U.S.C. 253 (proviso)) is omitted as obsolete because the officers referred to were officers of the Construction Corps which has been abolished.

The first sentence of this section is phrased so as to reflect the accepted meaning of the cited provision. 34 U.S.C. 253, as worded, if interpreted literally, could be held to prohibit, for example, the assignment of members of the Medical Service Corps, Nurse Corps, and Hospital Corps to duty under officers of the Medical Corps, despite the fact that all of these corps were established by law within the Medical Department of the Navy. The provision is not so interpreted. It is understood to restrict only the types of activities that staff corps officers may command, and not to restrict to a single corps the personnel who may be assigned to an activity commanded by a staff corps officer.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 5945 of this title as this section.

1967—Pub. L. 90-130 struck out provision that an officer in the Nurse Corps may not exercise command.

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.

§ 8166. Precedence accorded commanding officers

The commanding officer of a vessel or of a naval station takes precedence over all officers under his command.

(Aug. 10, 1956, ch. 1041, 70A Stat. 372, §5946; renumbered §8166, Pub. L. 115-232, div. A, title VIII, §807(b)(5), Aug. 13, 2018, 132 Stat. 1834.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row 5946: 34 U.S.C. 246, R.S. 1468.