

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
	46 U.S.C. 792 (as applicable to duration of stay).	July 3, 1944, ch. 399, §2 (as applicable to duration of stay), 58 Stat. 724.
	646 U.S.C. 794 (8th sentence and proviso of 9th sentence).	July 3, 1944, ch. 399, §4 (8th sentence and proviso of 9th sentence), 58 Stat. 724.

§ 7728. Restricted certificate

The Secretary of the Navy may restrict a certificate issued under this chapter so that it stays only the taking of testimony of certain witnesses or the production of evidence on certain subjects. The proceedings not stayed may continue.

(Aug. 10, 1956, ch. 1041, 70A Stat. 485.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7728	46 U.S.C. 794 (10th sentence).	July 3, 1944, ch. 399, §4 (10th sentence), 58 Stat. 724.

The words “The Secretary of the Navy may restrict a certificate” are substituted for the words “Any certificate * * * by the Secretary of the Navy * * * may, in his discretion, be restricted.” The words “the production of” are inserted for clarity. The words “in which event” are omitted as surplusage.

§ 7729. Investigation before issue of certificate

The Secretary of the Navy may not issue a certificate under this chapter until he satisfies himself by investigation that it is necessary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 485.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7729	46 U.S.C. 794 (less 1st 10 sentences).	July 3, 1944, ch. 399, §4 (less 1st 10 sentences), 58 Stat. 724.

§ 7730. Evidence admissible when witness is not available

Whenever the court is satisfied by appropriate evidence or by agreement of counsel that the United States or the claimant is unable after reasonable efforts to secure the testimony of a witness and—

(1) the United States or the claimant has been prevented by a stay under this chapter from examining the witness; or

(2) the United States establishes that it has refrained from bringing a suit or from taking the testimony of the witness in a pending suit to avoid endangering the security of naval operations or interfering with such operations;

the court shall receive in evidence in place of the testimony of the witness—

(1) the affidavit of the witness duly sworn to before a notary public or other authorized officer; or

(2) the statement or testimony of the witness before a court-martial, a court of inquiry, or an investigation; but the use of such state-

ment or testimony does not, in any litigation, make the remainder of the record admissible or compel the United States to produce the remainder of the record.

The court shall give such weight to the affidavit, statement, or testimony as it considers proper under the circumstances.

(Aug. 10, 1956, ch. 1041, 70A Stat. 485.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7730	46 U.S.C. 795.	July 3, 1944, ch. 399, §5, 58 Stat. 725.

The words “naval”, “board of investigation”, and “Coast Guard investigation” are omitted as surplusage.

CHAPTER 659—NAVAL MILITIA

Sec.

7851. Composition.

7852. Appointment and enlistment in reserve components.

7853. Release from Militia duty upon order to active duty in reserve components.

7854. Availability of material for Naval Militia.

§ 7851. Composition

The Naval Militia consists of the Naval Militia of the States, the District of Columbia, Guam, and the Virgin Islands.

(Aug. 10, 1956, ch. 1041, 70A Stat. 486; Pub. L. 109-163, div. A, title X, §1057(a)(11), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7851	50 U.S.C. 1071.	July 9, 1952, ch. 608, §501, 66 Stat. 500.

AMENDMENTS

2006—Pub. L. 109-163 substituted “States, the District of Columbia, Guam, and the Virgin Islands” for “States, the Territories, and the District of Columbia”.

§ 7852. Appointment and enlistment in reserve components

In the discretion of the Secretary of the Navy, any member of the Naval Militia may be appointed or enlisted in the Navy Reserve or the Marine Corps Reserve in the grade for which he is qualified.

(Aug. 10, 1956, ch. 1041, 70A Stat. 486; Pub. L. 109-163, div. A, title V, §515(b)(1)(W), Jan. 6, 2006, 119 Stat. 3233.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7852	50 U.S.C. 1072.	July 9, 1952, ch. 608, §502, 66 Stat. 500.

This section is written to indicate that the Secretary of the Navy has discretion in authorizing the appointment or enlistment in the Naval Reserve of members of the Naval Militia but does not make such appointments or enlistments. Section 593 of this title, based on 50 U.S.C. 942, 943, provides the manner in which all reserve appointments are made, and §510 of this title, based on

50 U.S.C. 941, 952, 956 provides the authority to enlist persons in the reserve components. As worded, this section removes the conflicting statement of appointing authority, and allows appointments and enlistments to be controlled by these other provisions. The words “rank” and “or rating” are omitted as covered by the word “grade”.

AMENDMENTS

2006—Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve”.

§ 7853. Release from Militia duty upon order to active duty in reserve components

When ordered to active duty, a member of the Navy Reserve or the Marine Corps Reserve who is a member of the Naval Militia is relieved from all service and duty in the Naval Militia from the date of active duty specified in his orders until he is released from active duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 486; Pub. L. 109-163, div. A, title V, § 515(b)(1)(X), Jan. 6, 2006, 119 Stat. 3233.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7853	50 U.S.C. 1073.	July 9, 1952, ch. 608, § 503, 66 Stat. 500.

The words “in the service of the United States” are omitted as covered by the definition of “active duty” in § 101 of this title. The words “is relieved” are substituted for the words “shall stand relieved”.

AMENDMENTS

2006—Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve”.

§ 7854. Availability of material for Naval Militia

Under regulations prescribed by the Secretary of the Navy, vessels, material, armament, equipment, and other facilities of the Navy and the Marine Corps available to the Navy Reserve and the Marine Corps Reserve may also be made available for issue or loan to any State, the District of Columbia, Guam, or the Virgin Islands for the use of its Naval Militia if—

- (1) at least 95 percent of the members of the portion or unit of the Naval Militia to which the facilities would be made available are members of the Navy Reserve or the Marine Corps Reserve; and
- (2) the organization, administration, and training of the Naval Militia conform to standards prescribed by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 486; Pub. L. 109-163, div. A, title V, § 515(b)(1)(Y), title X, § 1057(a)(12), Jan. 6, 2006, 119 Stat. 3233, 3441.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7854	50 U.S.C. 1074.	July 9, 1952, ch. 608, § 504, 66 Stat. 500.

The words “are or may be made”, before the word “available”, are omitted as surplusage.

In clause (1) the word “members” is substituted for the word “personnel”.

AMENDMENTS

2006—Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve” and “any State, the District of Co-

lumbia, Guam, or the Virgin Islands” for “any State, any Territory, or the District of Columbia” in introductory provisions and substituted “Navy Reserve” for “Naval Reserve” in par. (1).

CHAPTER 661—ACCOUNTABILITY AND RESPONSIBILITY

Sec.

- 7861. Custody of departmental records and property.
- 7862. Accounts of paymasters of lost or captured naval vessels.
- 7863. Disposal of public stores by order of commanding officer.

AMENDMENTS

1996—Pub. L. 104-106, div. A, title IX, § 913(c)(3)(B)(ii), Feb. 10, 1996, 110 Stat. 411, substituted “Disposal of public stores” for “Disbursements” in item 7863.

1986—Pub. L. 99-433, title V, § 514(b)(2), Oct. 1, 1986, 100 Stat. 1054, renumbered items 7861 and 7862 as 7862 and 7863, respectively, and inserted item 7861.

1982—Pub. L. 97-295, § 1(51)(D), Oct. 12, 1982, 96 Stat. 1300, substituted “naval” for “public” in item 7861.

§ 7861. Custody of departmental records and property

The Secretary of the Navy has custody and charge of all books, records, papers, furniture, fixtures, and other property under the lawful control of the executive part of the Department of the Navy.

(Added Pub. L. 99-433, title V, § 514(b)(2), Oct. 1, 1986, 100 Stat. 1055.)

PRIOR PROVISIONS

A prior section 7861 was renumbered section 7862 of this title.

§ 7862. Accounts of paymasters of lost or captured naval vessels

When settling the account of a paymaster of a lost or captured naval vessel, the Comptroller General in settling money accounts, and the Secretary of the Navy in settling property accounts, shall credit the account of the paymaster for the amount of provisions, clothing, small stores, and money for which the paymaster is charged that the Comptroller General or Secretary believes was lost inevitably because of the loss or capture. The paymaster is then free of liability for the provisions, clothing, small stores, and money.

(Added Pub. L. 97-258, § 2(b)(12)(B), Sept. 13, 1982, 96 Stat. 1057, § 7861; amended Pub. L. 97-295, § 1(51)(C), Oct. 12, 1982, 96 Stat. 1300; renumbered § 7862, Pub. L. 99-433, title V, § 514(b)(1), Oct. 1, 1986, 100 Stat. 1054.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7861	31:44 (1st sentence). 31:104.	June 10, 1921, ch. 18, § 304 (1st par. 1st sentence), 42 Stat. 24. R.S. § 284; Feb. 18, 1875, ch. 80, § 1 (4th complete par. on p. 317), 18 Stat. 317.

The word “naval” is substituted for “belonging to the Navy of the United States” to eliminate unnecessary words. The words “Secretary of the Navy” are substituted for “Paymaster General of the Navy” because