

§ 7723. Stay of proceedings for preserving evidence after stay of suit

If, at the time of certification under section 7722 of this title, or at any time before the termination of the stay based on the certificate, the Secretary of the Navy files with the court an additional certificate to the effect that the issue of any process to preserve evidence or the completion of action on process previously issued would tend to endanger the security of the United States or of any of its naval or military operations in the war, or would tend to interfere with those operations, then all proceedings for the taking or preserving of evidence to be used by either party in the trial shall be stayed.

(Aug. 10, 1956, ch. 1041, 70A Stat. 484.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7723	46 U.S.C. 791 (proviso, less applicability to duration of stay).	July 3, 1944, ch. 399, § 1 (proviso, less applicability to duration of stay), 58 Stat. 723.

The word “stayed” is substituted for the word “suspended” for uniformity and clarity.

§ 7724. Stay of proceedings for taking evidence before suit is filed

(a) If in time of war, with respect to any claim against the United States on which a suit described in section 7721 of this title would lie, the Secretary of the Navy certifies to the court, or to a judge of the court, in which proceedings are pending for—

- (1) the granting of a *dedimus potestatem* to take depositions;
- (2) a direction to take depositions in *perpetuam rei memoriam*; or
- (3) the taking of depositions or production of evidence pursuant to such *dedimus potestatem* or direction, or pursuant to any other proceedings for the purpose;

that the proceedings would tend to endanger the security of the United States or any of its naval or military operations in the war, or would tend to interfere with those operations, then the proceedings may not be started or, if they have been started, they shall, when the certificate is filed, be stayed.

(b) The time during which a claimant may file suit of the type described in section 7721 of this title is computed by excluding the time during which a stay under this section or any extension of such a stay is in effect.

(Aug. 10, 1956, ch. 1041, 70A Stat. 484.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7724	46 U.S.C. 792 (less applicability to duration of stay). 46 U.S.C. 796.	July 3, 1944, ch. 399, § 2 (less applicability to duration of stay), 58 Stat. 724. July 3, 1944, ch. 399, § 6, 58 Stat. 726.

In subsection (b) the words “upon a claim against the United States” and “as to any proceedings by or on behalf of such claimant for the taking of a deposition or the production of evidence in connection with or in relation to such claim” are omitted as surplusage.

§ 7725. Stay extended or shortened

The Secretary of the Navy, when a stay under this chapter is in effect, may file with the court, or a judge of the court, a certificate extending or shortening the time stated in the prior certificate. The filing of such a new certificate extends or shortens the stay to the period specified in the new certificate or terminates the stay if the new certificate so states.

(Aug. 10, 1956, ch. 1041, 70A Stat. 484.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7725	46 U.S.C. 794 (1st, and 9th (less proviso), sentences).	July 3, 1944, ch. 399, § 4 (1st, and 9th (less proviso), sentences), 58 Stat. 724.

The words “or suspension”, “either of prosecution of the suit or of the taking of testimony”, “during which the prosecution of such suit or taking of such deposition or production of evidence would tend to endanger the security of the United States or of such operations in time of war, or to interfere therewith”, “as the case may be”, and “in relation to which it is made shall continue in effect” are omitted as surplusage.

§ 7726. Reconsideration of stay

(a) A claimant or party who considers himself adversely affected by a stay under this chapter may serve a written notice on the Secretary of the Navy at Washington, D.C., requesting him to reconsider the stay previously issued and to issue a new certificate. The notice shall identify the stay by means of an attached copy of the certificate of the Secretary or a sufficient description of the stay. The notice may not contain any recital of the facts or circumstances involved.

(b) Within ten days after receiving notice under this section, the Secretary or his designee shall hold a secret meeting at which the claimant or party, or his representative, may present any facts and arguments he thinks material.

(c) Within ten days after a hearing under this section, the Secretary shall file with the court that ordered the stay a new certificate stating whether the stay is then to be terminated or for what period the stay is to continue in effect. If the Secretary fails to file a new certificate, the court, upon application by the claimant or party, shall issue an order directing the Secretary to file a new certificate within a specified time.

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

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7726(a)	46 U.S.C. 794 (2d, 3d, and 4th sentences).	July 3, 1944, ch. 399, § 4 (2d, 3d, and 4th sentences), 58 Stat. 724.
7726(b)	46 U.S.C. 794 (5th sentence).	July 3, 1944, ch. 399, § 4 (5th sentence), 58 Stat. 724.
7726(c)	46 U.S.C. 794 (6th and 7th sentences).	July 3, 1944, ch. 399, § 4 (6th and 7th sentences), 58 Stat. 724.

In subsection (a) the words “then in effect”, “upon which the stay is based”, and “for its identification” are omitted as surplusage.

In subsection (b) the words “with respect to whether or not a stay should be issued or maintained” are omitted as surplusage.