In subsection (b), the last sentence is substituted for 10:875a (1st and 2d provisos). The words ''on current payrolls'' are omitted as surplusage.

In subsection (c), the words ''Subject to subsection (b)'' are substituted for the words ''in the proportions hereinbefore indicated''.

In subsection (d), the words ''If he considers it in the best interest of the United States'' are substituted for the words ''when in his opinion the interests of the Government are best served by such action''. The words ''before, or at the time of'' are substituted for the words ''either on * * * or prior thereto''.

In subsection (e), the words ''member'' and ''his'' are substituted for the words ''officer or soldier''. The words ''or implement'' are omitted as surplusage.

In subsection (f), the words ''or if an article of military supply with whose issue a commissioned officer is charged is damaged'' are substituted for 10:872 (last sentence). The words ''that he was not at fault'' are substituted for the words ''that said deficiency [such damage] was not occasioned by any fault on his part''.

In subsection (g), the words ''bought on credit under section 4621(a)(1) of this title'' are substituted for the words ''designated by the officers of the Inspector-General's Department of the Army and purchased on credit from commissaries of subsistence''.

1958 ACT

The change [in subsec. (b)] reflects the opinion of the Judge Advocate General of the Air Force (June 10, 1957) that the term ''rate of pay'', as used in the source law for section 4837(b) (Act of May 22, 1928, ch. 676 (45 Stat. 698), as amended), included special pay and incentive pay.

The change [in subsec. (f)] reflects the opinion of the Assistant General Counsel (Fiscal Matters), Department of Defense (July 19, 1957), that section 1304, Revised Statutes (formerly 10 U.S.C. 872), the source law for this section, applied to warrant officers as well as to commissioned officers.

AMENDMENT OF SECTION

*For termination of amendment by section 683(a)(3) of Pub. L. 109–163, see Termination Date of 2006 Amendment note below.*

AMENDMENTS

2006—Pub. L. 109–163, § 683(a)(1), (3), temporarily amended section catchline and text generally. Prior to amendment, text read as follows: ''If he considers it in the best interest of the United States, the Secretary may have remitted or cancelled any part of an enlisted member's indebtedness to the United States or any of its instrumentalities remaining unpaid before, or at the time of, that member's honorable discharge.'' See Termination Date of 2006 Amendment note below.

1980—Pub. L. 96–513, substituted ''remission or cancellation of indebtedness of enlisted members'' for ''deductions from pay'' in section catchline, and in text substituted ''If he'' for ''(d) If he''.

1962—Pub. L. 87–649 repealed subsecs. (a) to (c) and (e) to (g) which related to deductions from pay. See subsecs. (b) to (g), respectively, of section 1007 of Title 37, Pay and Allowances of the Uniformed Services.

1958—Subsec. (b). Pub. L. 85–861, § 33(a)(27)(A), substituted ''his pay for that month'' for ''his basic pay for that month''.

Subsec. (f). Pub. L. 85–861, § 33(a)(27)(B), substituted ''an officer'' for ''a commissioned officer'' in two places.

TERMINATION DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title VI, § 683(a)(3), Jan. 6, 2006, 119 Stat. 3322, provided that: ''The amendments made by this subsection [amending this section and the analysis to this chapter] shall terminate on December 31, 2007. Effective on that date, section 4873 [4837] of title 10, United States Code, as in effect on the day before the date of the enactment of this Act [Jan. 6, 2006] shall be revived.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85–861, set out as a note under section 101 of this title.

## § 4838. Settlement of accounts: affidavit of company commander

In the settlement of the accounts of the commanding officer of a company for clothing and other military supplies, his affidavit may be received to show—

(1) that vouchers or company books were lost;

(2) anything tending to prove that any apparent deficiency of those articles was caused by unavoidable accident, or by loss in actual service without his fault; or

(3) that all or part of the clothing and supplies was properly used.

The affidavit may be used as evidence of the facts set forth, with or without other evidence, as determined by the Secretary of the Army to be just and proper under the circumstances.

(Aug. 10, 1956, ch. 1041, 70A Stat. 274.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4838 ..... | 10:1302. | R.S. 225 (less 1st sentence); added Feb. 27, 1877, ch. 69 (3d par.), 19 Stat. 241. |

The word ''anything'' is substituted for the words ''any matter or circumstance''. The words ''properly used'' are substituted for the words ''legally used and appropriated''. The words ''of the case'' are omitted as surplusage.

## § 4839. Settlement of accounts: oaths

The Secretary of the Army may detail any employee of the Department of the Army to administer oaths required by law in the settlement of an officer's accounts for clothing and other military supplies. An oath administered under this section shall be without expense to the person to whom it is administered.

(Aug. 10, 1956, ch. 1041, 70A Stat. 274.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4839 ..... | 10:1303. | R.S. 225 (1st sentence). |

The words ''and other military supplies'' are substituted for the words ''camp and garrison equipage, quartermaster's stores, and ordnance'' to conform to section 4838 of this title. The words ''person to whom administered'' are substituted for the words ''parties taking them''. The words ''for the purpose of'' are omitted as surplusage.

### § 4840. Final settlement of officer's accounts

Before final payment upon discharge may be made to an officer of the Army who has been accountable or responsible for public property, he must obtain a certificate of nonindebtedness to the United States from each officer to whom he was accountable or responsible for property. He must also make an affidavit, certified by his commanding officer to be correct, that he is not accountable or responsible for property to any other officer. An officer who has not been responsible for public property must make an affidavit of that fact, certified by his commanding officer. Compliance with this section warrants the final payment of the officer concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 274.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4840 ..... | 10:878. | Jan. 12, 1899, ch. 46, § 2, 30 Stat. 784. |

The words "Before final payment upon discharge may be made" are substituted for the words "shall warrant their final payment". The words "at any time" are omitted as surplusage. The word "must" is substituted for the words "shall be required * * * to". The words "He must also make" are substituted for the words "accompanied by". The words "from each officer to whom he was accountable or responsible for property" are substituted for the words "from only such of the bureaus of the Department of the Army to which the property for which they were accountable or responsible pertains", since there is no longer a bureau structure within the Department of the Army. The words "that he is not accountable or responsible for property to any other officer" are substituted for the words "accompanied by the affidavits of officers, of nonaccountability or nonresponsibility to other bureaus of the Department of the Army", for the same reason. The reference to certificates from the General Accounting Office is omitted as obsolete. The last sentence is substituted for 10:878 (last 18 words). The last proviso of section 2 of the act of January 12, 1899, ch. 46, 30 Stat. 784, is not contained in 10:878. It is also omitted from the revised section, since it related to authority of mustering officers to administer oaths and the general authority to administer oaths is now contained in section 936 of this title (article 136 of the Uniform Code of Military Justice).

### § 4841. Payment of small amounts to public creditors

When authorized by the Secretary of the Army, a disbursing official of Army subsistence funds may keep a limited amount of those funds in the personal possession and at the risk of the disbursing official to pay small amounts to public creditors.

(Added Pub. L. 97–258, § 2(b)(10)(B), Sept. 13, 1982, 96 Stat. 1056.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4841 ..... | 31:493. | Mar. 2, 1907, ch. 251 (proviso on p. 1166), 34 Stat. 1166. |

The title of Secretary of War was changed to Secretary of the Army by section 205(a) of the Act of July 26, 1947 (ch. 343, 61 Stat. 501), and by sections 1 and 53 of the Act of August 10, 1956 (ch. 1041, 70A Stat. 157, 676). The word "When" is substituted for "as shall from time to time be" to eliminate unnecessary words. The words "disbursing official" are substituted for "Officers intrusted with the disbursement" for consistency.

### § 4842. Settlement of accounts of line officers

The Comptroller General shall settle the account of a line officer of the Army for pay due the officer even if the officer cannot account for property entrusted to the officer or cannot make a monthly report or return, when the Comptroller General is satisfied that the inability to account for property or make a report or return was the result of the officer having been a prisoner, or of an accident or casualty of war.

(Added Pub. L. 97–258, § 2(b)(10)(B), Sept. 13, 1982, 96 Stat. 1057.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 4842 ..... | 31:44 (1st sentence). | June 10, 1921, ch. 18, § 304 (1st par. 1st sentence), 42 Stat. 24. |
| | 31:95. | R.S. § 278. |

The words "Comptroller General" are substituted for "General Accounting Office" for consistency. The words "audit and" are omitted as surplus. The words "for their services as such" and "by the affidavit of the officer or otherwise" are omitted as surplus. The words "to account for property or make a report or return" are added for clarity. The words "in the hands of the enemy" are omitted as surplus.

## Subtitle C—Navy and Marine Corps

### PART I—ORGANIZATION


| Chap. | | Sec. |
|---|---|---|
| **501.** | **Definitions** | **5001** |
| **503.** | **Department of the Navy** | **5011** |
| **505.** | **Office of the Chief of Naval Operations** | **5031** |
| **506.** | **Headquarters, Marine Corps** | **5041** |
| **507.** | **Composition of the Department of the Navy** | **5061** |
| **[509.** | **Repealed.]** | |
| **[511.** | **Repealed.]** | |
| **513.** | **Bureaus; Office of the Judge Advocate General** | **5131** |
| **[515.** | **Repealed.]** | |
| **[516.** | **Repealed.]** | |
| **[517.** | **Repealed.]** | |
| **[519.** | **Repealed.]** | |


### PART II—PERSONNEL


| | | |
|---|---|---|
| **[531.** | **Repealed.]** | |
| **533.** | **Distribution in Grade** | **5441** |
| **535.** | **Grade and Rank of Officers** | **5501** |
| **537.** | **Enlistments** | **5531** |
| **539.** | **Original Appointments** | **5571** |
| **[541.** | **Repealed.]** | |
| **[543.** | **Repealed.]** | |
| **544.** | **Temporary Appointments** | **5721** |
| **[545.** | **Repealed.]** | |
| **[547.** | **Repealed.]** | |
| **[549.** | **Repealed.]** | |
| **551.** | **Officers in Command** | **5941** |
| **553.** | **Special Assignments and Details** | **5981** |
| **555.** | **Administration** | **6011** |
| **557.** | **Rations** | **6081** |
| **559.** | **Miscellaneous Prohibitions and Penalties** | **6111** |

**561. Miscellaneous Rights and Benefits 6141**
**563. Hospitalization and Medical Care .. 6201**
**565. Bands ..... 6221**
**567. Decorations and Awards ..... 6241**
**569. Discharge of Enlisted Members ..... 6291**
**571. Voluntary Retirement ..... 6321**
**573. Involuntary Retirement, Separation, and Furlough ..... 6371**
**575. Recall to Active Duty ..... 6481**
**577. Death Benefits; Care of the Dead ... 6521**

**PART III—EDUCATION AND TRAINING**

**601. Officer Procurement Programs ..... 6901**
**602. Training Generally ..... 6931**
**603. United States Naval Academy ..... 6951**
**605. United States Naval Postgraduate School ..... 7041**
**607. Retirement of Civilian Members of the Teaching Staffs of the United States Naval Academy and United States Naval Postgraduate School ..... 7081**
**609. Professional Military Education Schools ..... 7101**

**PART IV—GENERAL ADMINISTRATION**

**631. Secretary of the Navy: Miscellaneous Powers and Duties ..... 7201**
**633. Naval Vessels ..... 7291**
**[635. Repealed.]**
**637. Salvage Facilities ..... 7361**
**639. United States Naval Observatory ... 7395**
**641. Naval Petroleum Reserves ..... 7420**
**643. Civilian Employees ..... 7471**
**645. Procurement of Supplies and Services ..... 7521**
**647. Disposal of Obsolete or Surplus Material ..... 7541**
**649. Quarters, Utilities, and Services ..... 7571**
**651. Ships' Stores and Commissary Stores ..... 7601**
**653. Claims ..... 7621**
**655. Prize ..... 7651**
**657. Stay of Judicial Proceedings ..... 7721**
**659. Naval Militia ..... 7851**
**661. Accountability and Responsibility 7861**
**663. Names and Insignia ..... 7881**
**665. National Oceanographic Partnership Program ..... 7901**

AMENDMENTS

2000—Pub. L. 106–398, §1 [[div. A], title X, §1085(b)(3)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A–289, struck out ''Related'' after ''Quarters, Utilities, and'' in item for chapter 649.

1998—Pub. L. 105–261, div. A, title V, §521(b)(2), Oct. 17, 1998, 112 Stat. 2011, added item for chapter 602.

1996—Pub. L. 104–201, div. A, title II, §282(a)(2), Sept. 23, 1996, 110 Stat. 2473, added item for chapter 665.

1994—Pub. L. 103–337, div. A, title XVI, §1673(a)(1), Oct. 5, 1994, 108 Stat. 3015, struck out items for chapters 519 ''Naval Reserve and Marine Corps Reserve'', 531 ''Strength of Naval Reserve and Marine Corps Reserve'', 541 ''Running Mates for Reserve Officers'', and 549 ''Reserve Promotions''.

1993—Pub. L. 103–160, div. A, title VIII, §828(b)(3), Nov. 30, 1993, 107 Stat. 1714, struck out item for chapter 635 ''Naval Aircraft''.

1991—Pub. L. 102–190, div. A, title X, §1061(a)(27)(B), Dec. 5, 1991, 105 Stat. 1474, substituted ''Education'' for ''Educational'' in item for chapter 609.

1990—Pub. L. 101–510, div. A, title IX, §912(b), Nov. 5, 1990, 104 Stat. 1627, added item for chapter 609.

1986—Pub. L. 99–433, title V, §514(d)(1), Oct. 1, 1986, 100 Stat. 1055, substituted ''Office of the Chief of Naval Operations'' for ''Secretary, Under Secretary, and Assistant Secretaries of the Navy'' in item for chapter 505, added item for chapter 506, substituted ''Composition of the Department of the Navy'' for ''Office of the Comptroller of the Navy'' in item for chapter 507, struck out item for chapter 509 ''Office of the Chief of Naval Operations'', struck out ''; Office of Naval Research'' after ''General'' in item for chapter 513, and struck out item for chapter 515 ''Commandant of the Marine Corps; Headquarters, Marine Corps''.

1984—Pub. L. 98–525, title XIV, §1405(48), title XV, §1532(a)(2), Oct. 19, 1984, 98 Stat. 2625, 2631, substituted ''Responsibility'' for ''responsibility'' in item for chapter 661 and added item for chapter 663.

1982—Pub. L. 97–295, §1(50)(G), Oct. 12, 1982, 96 Stat. 1300, substituted ''United States Naval Observatory'' for ''United States Naval Oceanographic Office and Naval Observatory'' in item for chapter 639.

Pub. L. 97–295, §1(51)(A), Oct. 12, 1982, 96 Stat. 1300, which directed substitution of ''Responsibility'' for ''responsibility'' in item for chapter 659, was executed to item for chapter 661 as the probable intent of Congress.

Pub. L. 97–258, §2(b)(12)(A), Sept. 13, 1982, 96 Stat. 1057, added item for chapter 661.

1980—Pub. L. 96–513, title V, §§503(1), 513(1), Dec. 12, 1980, 94 Stat. 2911, 2931, struck out item for chapter 517 ''Fleet Commands and other High Positions'', inserted ''of Naval Reserve and Marine Corps Reserve'' after ''Strength'' in item for chapter 531, inserted ''for Reserve Officers'' after ''Running Mates'' in item for chapter 541, struck out item for chapter 543 ''Selection Boards'', added item for chapter 544, and struck out items for chapter 545 ''Promotions'' and for chapter 547 ''Examinations for Promotion'', and in item for chapter 641 substituted ''7420'' for ''7421''

1977—Pub. L. 95–82, title VI, §611(b), Aug. 1, 1977, 91 Stat. 378, struck out item for chapter 516 ''Naval Districts''.

1967—Pub. L. 90–110, title X, §1001(2), Oct. 21, 1967, 81 Stat. 310, added item for chapter 516.

1966—Pub. L. 89–718, §34(b), Nov. 2, 1966, 80 Stat. 1119, struck out item for chapter 511 ''Office of the Chief of Naval Material''.

1962—Pub. L. 87–533, §2, July 10, 1962, 76 Stat. 155, substituted ''United States Naval Oceanographic'' for ''Hydrographic'' in item for chapter 639.

1958—Pub. L. 85–861, §1(134), Sept. 2, 1958, 72 Stat. 1507, added item for chapter 549.

## PART I—ORGANIZATION

| Chap. | | Sec. |
|---|---|---|
| 501. | Definitions ..... | 5001 |
| 503. | Department of the Navy ..... | 5011 |
| 505. | Office of the Chief of Naval Operations | 5031 |
| 506. | Headquarters, Marine Corps ..... | 5041 |
| 507. | Composition of the Department of the Navy ..... | 5061 |
| [509. | Repealed.] | |
| [511. | Repealed.] | |
| 513. | Bureaus; Office of the Judge Advocate General ..... | 5131 |
| [515. | Repealed.] | |
| [516. | Repealed.] | |
| [517. | Repealed.] | |
| [519. | Repealed.] | |

AMENDMENTS

1994—Pub. L. 103–337, div. A, title XVI, §1673(a)(2), Oct. 5, 1994, 108 Stat. 3015, struck out item for chapter 519 ''Naval Reserve and Marine Corps Reserve''.

1986—Pub. L. 99–433, title V, §514(d)(1), Oct. 1, 1986, 100 Stat. 1055, substituted ''Office of the Chief of Naval Operations'' for ''Secretary, Under Secretary, and Assistant Secretaries of the Navy'' in item for chapter 505, added item for chapter 506, substituted ''Composition of the Department of the Navy'' for ''Office of the Comp-

troller of the Navy'' in item for chapter 507, struck out item for chapter 509 ''Office of the Chief of Naval Operations'', struck out ''; Office of Naval Research'' after ''General'' in item for chapter 513, and struck out item for chapter 515 ''Commandant of the Marine Corps; Headquarters, Marine Corps''.

1980—Pub. L. 96–513, title V, § 503(2), Dec. 12, 1980, 94 Stat. 2911, struck out item for chapter 517 ''Fleet Commands and other High Positions''.

1977—Pub. L. 95–82, title VI, § 611(b), Aug. 1, 1977, 91 Stat. 378, struck out item for chapter 516 ''Naval Districts''.

1967—Pub. L. 90–110, title X, § 1001(2), Oct. 21, 1967, 81 Stat. 310, added item for chapter 516.

1966—Pub. L. 89–718, § 34(b), Nov. 2, 1966, 80 Stat. 1119, struck out item for chapter 511 ''Office of the Chief of Naval Material''.

## CHAPTER 501—DEFINITIONS

Sec.
5001. Definitions.

### § 5001. Definitions

(a) In this subtitle:

(1) The term ''Navy'' means the United States Navy. It includes the Regular Navy, the Fleet Reserve, and the Navy Reserve.

(2) The term ''Marine Corps'' means the United States Marine Corps. It includes the Regular Marine Corps, the Fleet Marine Corps Reserve, and the Marine Corps Reserve.

(3) The term ''member of the naval service'' means a person appointed or enlisted in, or inducted or conscripted into, the Navy or the Marine Corps.

(4) The term ''enlisted member'' means a member of the naval service serving in an enlisted grade or rating. It excludes, unless otherwise specified, a member who holds a permanent enlisted grade and a temporary appointment in a commissioned or warrant officer grade.

(5) The term ''officer'' means a member of the naval service serving in a commissioned or warrant officer grade. It includes, unless otherwise specified, a member who holds a permanent enlisted grade and a temporary appointment in a commissioned or warrant officer grade.

(6) The term ''commissioned officer'' means a member of the naval service serving in a grade above warrant officer, W–1. It includes, unless otherwise specified, a member who holds a permanent enlisted grade or the permanent grade of warrant officer, W–1, and a temporary appointment in a grade above warrant officer, W–1.

(7) The term ''warrant officer'' means a member of the naval service serving in a warrant officer grade. It includes, unless otherwise specified, a member who holds a permanent enlisted grade and a temporary appointment in a warrant officer grade.

(8) The term ''officer restricted in the performance of duty'' means an officer of the Navy designated for engineering duty, aeronautical engineering duty, special duty, or limited duty, or an officer of the Marine Corps designated for limited duty.

(b) For the purposes of this subtitle, a member of the naval service who holds a temporary appointment in a grade higher than his permanent grade is considered, unless otherwise specified, to be serving in the higher grade.

(Aug. 10, 1956, ch. 1041, 70A Stat. 276; Pub. L. 87–123, § 5(1), Aug. 3, 1961, 75 Stat. 264; Pub. L. 96–513, title III, § 371, title V, § 513(2), Dec. 12, 1980, 94 Stat. 2903, 2931; Pub. L. 100–26, § 7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 109–163, div. A, title V, § 515(b)(1)(E), Jan. 6, 2006, 119 Stat. 3233.)

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

1987—Subsec. (a). Pub. L. 100–26 inserted ''The term'' after each par. designation and struck out uppercase letter of first word after first quotation marks in pars. (3) to (8) and substituted lowercase letter.

1980—Subsec. (a)(3). Pub. L. 96–513, § 513(2), struck out '', male or female,'' after ''person''.

Subsec. (a)(9), (10). Pub. L. 96–513, § 371, struck out pars. (9) and (10) which defined the active lists of the Navy and the Marine Corps, respectively. See section 101 of this title.

1961—Subsec. (a)(8). Pub. L. 87–123 struck out provisions which related to Marine Corps officers designated for supply duty.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 371 of 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.

Amendment by section 513(2) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513.

## CHAPTER 503—DEPARTMENT OF THE NAVY

Sec.
5011. Organization.
5012. Department of the Navy: seal.
5013. Secretary of the Navy.
5013a. Secretary of the Navy: powers with respect to Coast Guard.
5014. Office of the Secretary of the Navy.
5015. Under Secretary of the Navy.
5016. Assistant Secretaries of the Navy.
5017. Secretary of the Navy: successors to duties.
5018. Administrative Assistant.
5019. General Counsel.
5020. Naval Inspector General: detail; duties.
[5021. Repealed.]
5022. Office of Naval Research: duties.
5023. Office of Naval Research: appropriations; time limit.
5024. Naval Research Advisory Committee.
5025. Financial management.
5026. Consultation with Commandant of the Marine Corps on major decisions directly concerning Marine Corps aviation.
5027. Chief of Legislative Affairs.
5028. Director of Small Business Programs.

AMENDMENTS

2006—Pub. L. 109–163, div. A, title IX, § 904(d)(2), Jan. 6, 2006, 119 Stat. 3401, added item 5028.

2002—Pub. L. 107–314, div. A, title V, § 504(d)(1)(B), Dec. 2, 2002, 116 Stat. 2532, added item 5027.

1998—Pub. L. 105–261, div. A, title IX, § 935(b), Oct. 17, 1998, 112 Stat. 2110, added item 5026.

1990—Pub. L. 101–510, div. A, title IX, § 910(b)(2), Nov. 5, 1990, 104 Stat. 1625, struck out item 5021 ''Office of Naval Research: Chief; appointment, term, emoluments; Assistant Chief; succession to duties''.

1988—Pub. L. 100–456, div. A, title VII, § 702(b)(3), Sept. 29, 1988, 102 Stat. 1995, added item 5025.

1986—Pub. L. 99–433, title V, § 511(f), Oct. 1, 1986, 100 Stat. 1048, amended analysis generally, substituting items 5011 to 5024 for former items 5011 to 5014.

1964—Pub. L. 88–426, title III, § 305(40)(B), Aug. 14, 1964, 78 Stat. 427, struck out item 5014 ''Compensation of General Counsel''.

1958—Pub. L. 85–861, § 1(106)(B), Sept. 2, 1958, 72 Stat. 1490, added item 5014.

## § 5011. Organization

The Department of the Navy is separately organized under the Secretary of the Navy. It operates under the authority, direction, and control of the Secretary of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 277; Pub. L. 87–651, title II, § 212, Sept. 7, 1962, 76 Stat. 524; Pub. L. 99–433, title V, § 511(b)(2), (c)(1), Oct. 1, 1986, 100 Stat. 1043.)

HISTORICAL AND REVISION NOTES

1956 ACT

The Act of July 26, 1947, ch. 343, as amended (5 U.S.C. 411a(a)) which is the National Security Act of 1947, defined ''Department of the Navy''. The Acts of Mar. 5, 1948, ch. 98 (5 U.S.C. 423a(a)), and Aug. 2, 1946, ch. 756 (5 U.S.C. 421g) defined ''Naval Establishment''. The terms ''Department of the Navy'' and ''Naval Establishment'' are considered to be synonymous. All three definitions were considered, but the phraseology adopted is that of the National Security Act of 1947. The phrase ''as a service in the Navy'' is substituted for ''as a part of the Navy'' to conform to the provisions of title 14.

1962 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5011 ..... | 5:171a(c)(7) (1st sentence, less applicability to Departments of Army and Air Force). | July 26, 1947, ch. 343, § 202(c)(7) (1st sentence, less applicability to Departments of Army and Air Force); added Aug. 6, 1958, Pub. L. 85–599, § 3(a) (1st sentence of 8th par., less applicability to Departments of Army and Air Force), 72 Stat. 516. |

The words ''to include naval aviation and the United States Marine Corps'' are omitted as covered by the first sentence of section 5011. The word ''operates'' is substituted for the words ''shall function''.

AMENDMENTS

1986—Pub. L. 99–433, § 511(c)(1), substituted ''Organization'' for ''Composition'' in section catchline.

Pub. L. 99–433, § 511(b)(2), struck out the last two sentences which read as follows: ''It is composed of the executive part of the Department of the Navy; the Headquarters, United States Marine Corps; the entire operating forces, including naval aviation, of the United States Navy and of the United States Marine Corps, and the reserve components of those operating forces; and all field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Secretary of the Navy. It includes the United States Coast Guard when it is operating as a service in the Navy.'' See section 5061 of this title.

1962—Pub. L. 87–651 inserted sentences providing that the Department of the Navy is separately organized under the Secretary of the Navy, and that it operates under the authority, direction, and control of the Secretary of Defense.

## § 5012. Department of the Navy: seal

The Secretary of the Navy shall have a seal for the Department of the Navy. The design of the seal must be approved by the President. Judicial notice shall be taken of the seal.

(Added Pub. L. 99–433, title V, § 511(c)(2), Oct. 1, 1986, 100 Stat. 1043.)

PRIOR PROVISIONS

A prior section 5012 was renumbered section 5062 of this title.

## § 5013. Secretary of the Navy

(a)(1) There is a Secretary of the Navy, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department of the Navy.

(2) A person may not be appointed as Secretary of the Navy within five years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) Subject to the authority, direction, and control of the Secretary of Defense and subject to the provisions of chapter 6 of this title, the Secretary of the Navy is responsible for, and has the authority necessary to conduct, all affairs of the Department of the Navy, including the following functions:

(1) Recruiting.

(2) Organizing.

(3) Supplying.

(4) Equipping (including research and development).

(5) Training.

(6) Servicing.

(7) Mobilizing.

(8) Demobilizing.

(9) Administering (including the morale and welfare of personnel).

(10) Maintaining.

(11) The construction, outfitting, and repair of military equipment.

(12) The construction, maintenance, and repair of buildings, structures, and utilities and the acquisition of real property and interests in real property necessary to carry out the responsibilities specified in this section.

(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Navy is also responsible to the Secretary of Defense for—

(1) the functioning and efficiency of the Department of the Navy;

(2) the formulation of policies and programs by the Department of the Navy that are fully consistent with national security objectives and policies established by the President or the Secretary of Defense;

(3) the effective and timely implementation of policy, program, and budget decisions and instructions of the President or the Secretary of Defense relating to the functions of the Department of the Navy;

(4) carrying out the functions of the Department of the Navy so as to fulfill the current and future operational requirements of the unified and specified combatant commands;

(5) effective cooperation and coordination between the Department of the Navy and the other military departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;

(6) the presentation and justification of the positions of the Department of the Navy on the plans, programs, and policies of the Department of Defense; and

(7) the effective supervision and control of the intelligence activities of the Department of the Navy.

(d) The Secretary of the Navy is also responsible for such other activities as may be prescribed by law or by the President or Secretary of Defense.

(e) After first informing the Secretary of Defense, the Secretary of the Navy may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

(f) The Secretary of the Navy may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Navy and to the Assistant Secretaries of the Navy. Officers of the Navy and the Marine Corps shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or any Assistant Secretary.

(g) The Secretary of the Navy may—

(1) assign, detail, and prescribe the duties of members of the Navy and Marine Corps and civilian personnel of the Department of the Navy;

(2) change the title of any officer or activity of the Department of the Navy not prescribed by law; and

(3) prescribe regulations to carry out his functions, powers, and duties under this title.

(Added Pub. L. 99–433, title V, § 511(c)(2), Oct. 1, 1986, 100 Stat. 1043; amended Pub. L. 99–661, div. A, title V, § 534, Nov. 14, 1986, 100 Stat. 3873; Pub. L. 108–136, div. A, title IX, § 901, Nov. 24, 2003, 117 Stat. 1558.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5031 of this title prior to enactment of Pub. L. 99–433.

A prior section 5013 was renumbered section 5063 of this title.

AMENDMENTS

2003—Subsec. (c)(4). Pub. L. 108–136 struck out ''(to the maximum extent practicable)'' after ''fulfill''.

1986—Subsec. (a)(2). Pub. L. 99–661 substituted ''five years'' for ''10 years''.

REVERSIONARY INTERESTS IN REAL PROPERTY USED BY CLOSED OR REALIGNED NAVAL STATIONS

Pub. L. 109–148, div. B, title I, § 702, Dec. 30, 2005, 119 Stat. 2773, provided that: ''For any real property expressly granted to the United States since January 1, 1980 for use as or in connection with a Navy homeport subject to a reversionary interest retained by the grantor and serving as the site of or being used by a naval station subsequently closed or realigned pursuant to the Defense Base Closure and Realignment Act of 1990 [part A of title XXIX of div. B of Pub. L. 101–510, set out as a note under section 2687 of this title] as amended, the right of the United States to any consideration or repayment for the fair market value of the real property as improved shall be released, relinquished, waived, or otherwise permanently extinguished. The Secretary shall execute such written agreements as may be needed to facilitate the reversion and transfer all right, title, and interest of the United States in any real property described in this section, including the improvements thereon, for no consideration to the reversionary interest holder as soon as practicable after the naval station is closed or realigned. This agreement shall not require the reversionary interest holder to assume any environmental liabilities of the United States or relieve the United States from any responsibilities for environmental remediation that it may have incurred as a result of federal ownership or use of the real property.''

ELIMINATION OF REVERSIONARY INTERESTS CLOUDING UNITED STATES TITLE TO PROPERTY USED AS NAVY HOMEPORTS

Pub. L. 108–375, div. B, title XXVIII, § 2823, Oct. 28, 2004, 118 Stat. 2132, provided that:

''(a) AUTHORITY TO ACQUIRE COMPLETE TITLE.—If real property owned by the United States and used as a Navy homeport is subject to a reversionary interest of any kind, the Secretary of the Navy may enter into an agreement with the holder of the reversionary interest to acquire the reversionary interest and thereby secure for the United States all right, title, and interest in and to the property.

''(b) AUTHORIZED CONSIDERATION.—(1) As consideration for the acquisition of a reversionary interest under subsection (a), the Secretary shall provide the holder of the reversionary interest with in-kind consideration, to be determined pursuant to negotiations between the Secretary and the holder of the reversionary interest.

''(2) In determining the type and value of any in-kind consideration to be provided for the acquisition of a reversionary interest under subsection (a), the Secretary shall take into account the nature of the reversionary interest, including whether it would require the holder of the reversionary interest to pay for any improvements acquired by the holder as part of the reversion of the real property, and the long-term use and ultimate disposition of the real property if the United States were to acquire all right, title, and interest in and to the real property subject to the reversionary interest.

''(c) PROHIBITED CONSIDERATION.—Cash payments are not authorized to be made as consideration for the acquisition of a reversionary interest under subsection (a).''

NAVAL AVIATION DEPOTS MULTI-TRADES DEMONSTRATION PROJECT

Pub. L. 108–136, div. A, title III, § 338, Nov. 24, 2003, 117 Stat. 1447, provided that:

''(a) DEMONSTRATION PROJECT REQUIRED.—In accordance with section 4703 of title 5, United States Code, the Secretary of the Navy shall carry out a demonstration project under which three Naval Aviation Depots are given the flexibility to promote by one grade level workers who are certified at the journey level as able to perform multiple trades.

''(b) SELECTION REQUIREMENTS.—As a condition on eligibility for selection to participate in the demonstration project, the head of a Naval Aviation Depot shall submit to the Secretary a business case analysis and concept plan—

''(1) that, on the basis of the results of analysis of work processes, demonstrate that process improvements would result from the trade combinations proposed to be implemented under the demonstration project; and

''(2) that describes the improvements in cost, quality, or schedule of work that are anticipated to result from the participation in the demonstration project.

''(c) PARTICIPATING WORKERS.—(1) Actual worker participation in the demonstration project shall be determined through competitive selection. Not more than 15 percent of the wage grade journeyman at a demonstration project location may be selected to participate.

''(2) Job descriptions and competency-based training plans must be developed for each worker while in training under the demonstration project and once certified as a multi-trade worker. A certified multi-trade worker who receives a pay grade promotion under the demonstration project must use each new skill during at least 25 percent of the worker's work year.

''(d) FUNDING SOURCE.—Appropriations for operation and maintenance of the Naval Aviation Depots selected

to participate in the demonstration project shall be used as the source of funds to carry out the demonstration project, including the source of funds for pay increases made under the project.

''(e) DURATION.—The demonstration project shall be conducted during fiscal years 2004 through 2006.

''(f) REPORT.—Not later than January 15, 2007, the Secretary shall submit a report to Congress describing the results of the demonstration project.

''(g) GAO EVALUATION.—The Secretary shall transmit a copy of the report to the Comptroller General. Within 90 days after receiving the report, the Comptroller General shall submit to Congress an evaluation of the report.''

NAVY HIGHER EDUCATION PILOT PROGRAM REGARDING ADMINISTRATION OF BUSINESS RELATIONSHIPS BETWEEN GOVERNMENT AND PRIVATE SECTOR

Pub. L. 105–85, div. A, title XI, § 1108, Nov. 18, 1997, 111 Stat. 1926, provided that:

''(a) PILOT PROJECT AUTHORIZED.—During fiscal years 1998 through 2002, the Secretary of the Navy may establish and conduct a pilot program of graduate-level higher education regarding the administration of business relationships between the Government and the private sector.

''(b) PURPOSE.—The purpose of the pilot program is to make available to employees of the Naval Undersea Warfare Center, employees of the Naval Sea Systems Command, and employees of the Acquisition Center for Excellence of the Navy (upon establishment of such Acquisition Center), a curriculum of graduate-level higher education leading to the award of a graduate degree designed to prepare participants effectively to meet the challenges of administering Government contracting and other business relationships between the United States and private sector businesses in the context of constantly changing or newly emerging industries, technologies, governmental organizations, policies, and procedures (including governmental organizations, policies, and procedures recommended in the National Performance Review).

''(c) PARTNERSHIP WITH INSTITUTION OF HIGHER EDUCATION.—(1) The Secretary of the Navy may enter into an agreement with an institution of higher education to assist the Naval Undersea Warfare Center with the development of the curriculum for the pilot program, to offer courses and provide instruction and materials to participants to the extent provided for in the agreement, to provide such other assistance in support of the program as may be provided for in the agreement, and to award a graduate degree under the program.

''(2) To be eligible to enter into an agreement under paragraph (1), an institution of higher education must have an established program of graduate-level education that is relevant to the purpose of the pilot program.

''(d) CURRICULUM.—The curriculum offered under the pilot program shall—

''(1) be designed specifically to achieve the purpose of the pilot program; and

''(2) include courses that are—

''(A) typically offered under curricula leading to award of the degree of Master of Business Administration by institutions of higher education; and

''(B) necessary for meeting educational qualification requirements for certification as an acquisition program manager.

''(e) DISTANCE LEARNING OPTION.—The Secretary of the Navy may include as part of the pilot program policies and procedures for offering distance learning instruction by means of telecommunications, correspondence, or other methods for off-site receipt of instruction.

''(f) REPORT.—Not later than 90 days after the termination of the pilot program, the Secretary of the Navy shall submit to Congress a report containing—

''(1) an assessment by the Secretary of the value of the program for meeting the purpose of the program and the desirability of permanently establishing a similar program for other employees of the Department of Defense; and

''(2) such other information and recommendations regarding the program as the Secretary considers appropriate.

''(g) LIMITATION ON FUNDING SOURCE.—Any funds required for the pilot program for a fiscal year shall be derived only from the appropriation 'Operation and Maintenance, Navy' for that fiscal year.''

USE OF NAVAL INSTALLATIONS FOR EMPLOYMENT TRAINING OF NONVIOLENT OFFENDERS IN STATE PENAL SYSTEMS

Pub. L. 103–160, div. A, title XIII, § 1374, Nov. 30, 1993, 107 Stat. 1821, as amended by Pub. L. 103–337, div. A, title X, § 1064, Oct. 5, 1994, 108 Stat. 2848, provided that:

''(a) DEMONSTRATION PROJECT AUTHORIZED.—The Secretary of the Navy may conduct a demonstration project to test the feasibility of using Navy facilities to provide employment training to nonviolent offenders in a State penal system prior to their release from incarceration. The demonstration project shall be limited to not more than three military installations under the jurisdiction of the Secretary.

''(b) SOURCES OF TRAINING.—The Secretary may enter into a cooperative agreement with one or more private, nonprofit organizations for purposes of providing at the military installations included in the demonstration project the prerelease employment training authorized under subsection (a) or may provide such training directly at such installations by agreement with the State concerned.

''(c) USE OF FACILITIES.—Under a cooperative agreement entered into under subsection (b), the Secretary may lease or otherwise make available to a nonprofit organization participating in the demonstration project at a military installation included in the demonstration project any real property or facilities at the installation that the Secretary considers to be appropriate for use to provide the prerelease employment training authorized under subsection (a). Notwithstanding section 2667(b)(4) of title 10, United States Code, the use of such real property or facilities may be permitted with or without reimbursement.

''(d) ACCEPTANCE OF SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept voluntary services provided by persons participating in the prerelease employment training authorized under subsection (a).

''(e) LIABILITY AND INDEMNIFICATION.—(1) The Secretary may not enter into a cooperative agreement under subsection (b) with a nonprofit organization for the participation of that organization in the demonstration project unless the agreement includes provisions that the nonprofit organization shall—

''(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of prerelease employment training by the organization under the demonstration project; and

''(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from or in connection with the demonstration project.

''(2) The Secretary may not enter into an agreement under subsection (b) with the State concerned for the provision of prerelease employment training directly by the Secretary unless the agreement with the State concerned includes provisions that the State shall—

''(A) be liable for any loss or damage to Federal Government property that may result from, or in connection with, the provision of the training except to the extent that the loss or damage results from a wrongful act or omission of Federal Government personnel; and

''(B) hold harmless and indemnify the United States from and against any suit, claim, demand, action, or liability arising out of any claim for personal injury or property damage that may result from, or in con-

nection with, the provision of the training except to the extent that the personal injury or property damage results from a wrongful act or omission of Federal Government personnel.

''(f) REPORT.—Not later than two years after the date of the enactment of this Act [Nov. 30, 1993], the Secretary shall submit to Congress a report evaluating the success of the demonstration project and containing such recommendations with regard to the termination, continuation, or expansion of the demonstration project as the Secretary considers to be appropriate.''

ORDER OF SUCCESSION

For order of succession in event of death, permanent disability, or resignation of Secretary of the Navy, see Ex. Ord. No. 12879, Nov. 8, 1993, 58 F.R. 59929, set out as a note under section 3345 of Title 5.

## § 5013a. Secretary of the Navy: powers with respect to Coast Guard

(a) Whenever the Coast Guard operates as a service in the Navy under section 3 of title 14, the Secretary of the Navy has the same powers and duties with respect to the Coast Guard as the Secretary of Homeland Security has when the Coast Guard is not so operating.

(b) While operating as a service in the Navy, the Coast Guard is subject to the orders of the Secretary of the Navy, who may order changes in Coast Guard operations to make them uniform, to the extent he considers advisable, with Navy operations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 279, § 5032; Pub. L. 96–513, title V, § 513(3), Dec. 12, 1980, 94 Stat. 2931; renumbered § 5013a, Pub. L. 99–433, title V, § 511(c)(3), Oct. 1, 1986, 100 Stat. 1045; Pub. L. 107–296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

Subsection (a) is derived from 14 U.S.C. 5, and subsection (b) from the second sentence of 14 U.S.C. 3. These provisions are duplicated in this title for the purpose of producing a statement of the general powers of the Secretary of the Navy in this important area.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–296 substituted ''Secretary of Homeland Security'' for ''Secretary of Transportation''.

1980—Subsec. (a). Pub. L. 96–513 substituted ''Secretary of Transportation'' for ''Secretary of the Treasury''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

## § 5014. Office of the Secretary of the Navy

(a) There is in the Department of the Navy an Office of the Secretary of the Navy. The function of the Office is to assist the Secretary of the Navy in carrying out his responsibilities.

(b) The Office of the Secretary of the Navy is composed of the following:

(1) The Under Secretary of the Navy.

(2) The Assistant Secretaries of the Navy.

(3) The General Counsel of the Department of the Navy.

(4) The Judge Advocate General of the Navy.

(5) The Naval Inspector General.

(6) The Chief of Legislative Affairs.

(7) The Chief of Naval Research.

(8) Such other offices and officials as may be established by law or as the Secretary of the Navy may establish or designate.

(c)(1) The Office of the Secretary of the Navy shall have sole responsibility within the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, for the following functions:

(A) Acquisition.

(B) Auditing.

(C) Comptroller (including financial management).

(D) Information management.

(E) Inspector General.

(F) Legislative affairs.

(G) Public affairs.

(2) The Secretary of the Navy shall establish or designate a single office or other entity within the Office of the Secretary of the Navy to conduct each function specified in paragraph (1). No office or other entity may be established or designated within the Office of the Chief of Naval Operations or the Headquarters, Marine Corps, to conduct any of the functions specified in paragraph (1).

(3) The Secretary shall—

(A) prescribe the relationship of each office or other entity established or designated under paragraph (2)—

(i) to the Chief of Naval Operations and the Office of the Chief of Naval Operations; and

(ii) to the Commandant of the Marine Corps and the Headquarters, Marine Corps; and

(B) ensure that each such office or entity provides the Chief of Naval Operations and the Commandant of the Marine Corps such staff support as each considers necessary to perform his duties and responsibilities.

(4) The vesting in the Office of the Secretary of the Navy of the responsibility for the conduct of a function specified in paragraph (1) does not preclude other elements of the executive part of the Department of the Navy (including the Office of the Chief of Naval Operations and the Headquarters, Marine Corps) from providing advice or assistance to the Chief of Naval Operations and the Commandant of the Marine Corps or otherwise participating in that function within the executive part of the Department under the direction of the office assigned responsibility for that function in the Office of the Secretary of the Navy.

(5)(A) The head of the office or other entity established or designated by the Secretary to conduct the auditing function shall have at least five years of professional experience in accounting or auditing. The position shall be considered to be a career reserved position as defined in section 3132(a)(8) of title 5.

(B) The position of regional director within such office or entity, and any other position

within such office or entity the primary responsibilities of which are to carry out supervisory functions, may not be held by a member of the armed forces on active duty.

(d)(1) Subject to paragraph (2), the Office of the Secretary of the Navy shall have sole responsibility within the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, for the function of research and development.

(2) The Secretary of the Navy may assign to the Office of the Chief of Naval Operations and the Headquarters, Marine Corps, responsibility for those aspects of the function of research and development relating to military requirements and test and evaluation.

(3) The Secretary shall establish or designate a single office or other entity within the Office of the Secretary of the Navy to conduct the function specified in paragraph (1).

(4) The Secretary shall—

(A) prescribe the relationship of the office or other entity established or designated under paragraph (3)—

(i) to the Chief of Naval Operations and the Office of the Chief of Naval Operations; and

(ii) to the Commandant of the Marine Corps and the Headquarters, Marine Corps; and

(B) ensure that each such office or entity provides the Chief of Naval Operations and the Commandant of the Marine Corps such staff support as each considers necessary to perform his duties and responsibilities.

(e) The Secretary of the Navy shall ensure that the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, do not duplicate specific functions for which the Secretary has assigned responsibility to another of such offices.

(f)(1) The total number of members of the armed forces and civilian employees of the Department of the Navy assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of Chief of Naval Operations, and the Headquarters, Marine Corps, may not exceed 2,866.

(2) Not more than 1,720 officers of the Navy and Marine Corps on the active-duty list may be assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps.

(3) The total number of general and flag officers assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, may not exceed 74.

(4) The limitations in paragraphs (1), (2), and (3) do not apply in time of war or during a national emergency declared by the President or Congress. The limitation in paragraph (2) does not apply whenever the President determines that it is in the national interest to increase the number of officers assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, or the Headquarters, Marine Corps.

(Added Pub. L. 99–433, title V, § 511(c)(4), Oct. 1, 1986, 100 Stat. 1045; amended Pub. L. 100–180, div. A, title XIII, § 1314(b)(7), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 100–456, div. A, title III, § 325(b), Sept. 29, 1988, 102 Stat. 1955; Pub. L. 101–189, div. A, title VI, § 652(a)(4), Nov. 29, 1989, 103 Stat. 1461; Pub. L. 107–107, div. A, title X, § 1048(a)(28), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 107–314, div. A, title V, § 504(d)(2), Dec. 2, 2002, 116 Stat. 2532.)

PRIOR PROVISIONS

A prior section 5014, added Pub. L. 85–861, § 1(106)(A), Sept. 2, 1958, 72 Stat. 1490, prescribed compensation of General Counsel of Department of the Navy, prior to repeal by Pub. L. 88–426, title III, § 305(40)(A), Aug. 14, 1964, 78 Stat. 427, eff. first day of first pay period beginning on or after July 1, 1964. See section 5316 of Title 5, Government Organization and Employees.

AMENDMENTS

2002—Subsec. (b)(6) to (8). Pub. L. 107–314 added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

2001—Subsec. (f)(3). Pub. L. 107–107 substituted ''74'' for ''the number equal to 85 percent of the number of general and flag officers assigned or detailed to such duty on the date of the enactment of this subsection''.

1989—Subsec. (f)(5). Pub. L. 101–189 struck out par. (5) which read as follows: ''The limitations in paragraphs (1), (2), and (3) do not apply before October 1, 1988.''

1988—Subsec. (c)(5). Pub. L. 100–456 added par. (5).

1987—Subsec. (f)(4). Pub. L. 100–180 inserted ''the President or'' after ''declared by''.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 325(d) of Pub. L. 100–456 provided that:

''(1) The requirements of sections 3014(c)(5), 5014(c)(5)(A), and 8014(c)(5) of title 10, United States Code (as added by subsections (a), (b), and (c), respectively), shall apply with respect to any person appointed on or after the date of the enactment of this Act [Sept. 29, 1988] as the head of the office or other entity designated for conducting the auditing function in a military department.

''(2) Subparagraph (B) of section 5014(c)(5) of title 10, United States Code (as added by subsection (b)), shall take effect at the end of the one-year period beginning on the date of the enactment of this Act.''

EFFECTIVE DATE

Subsecs. (c) and (d) of this section to be implemented not later than 180 days after Oct. 1, 1986, see section 532(a) of Pub. L. 99–433, set out as a note under section 3014 of this title.

## § 5015. Under Secretary of the Navy

(a) There is an Under Secretary of the Navy, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of the Navy may prescribe.

(Added Pub. L. 99–433, title V, § 511(c)(4), Oct. 1, 1986, 100 Stat. 1047.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5033 of this title prior to enactment of Pub. L. 99–433.

ORDER OF SUCCESSION

For order of succession in event of death, permanent disability, or resignation of Secretary of the Navy, see Ex. Ord. No. 12879, Nov. 8, 1993, 58 F.R. 59929, set out as a note under section 3345 of Title 5.

### § 5016. Assistant Secretaries of the Navy

(a) There are four Assistant Secretaries of the Navy. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Navy may prescribe.

(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Navy for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Navy.

(3) One of the Assistant Secretaries shall be the Assistant Secretary of the Navy for Financial Management. The Assistant Secretary shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Navy, including financial management functions. The Assistant Secretary shall be responsible for all financial management activities and operations of the Department of the Navy and shall advise the Secretary of the Navy on financial management.

(Added Pub. L. 99–433, title V, § 511(c)(4), Oct. 1, 1986, 100 Stat. 1047; amended Pub. L. 100–456, div. A, title VII, § 702(b)[(1)], Sept. 29, 1988, 102 Stat. 1994.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5034 of this title prior to enactment of Pub. L. 99–433.

AMENDMENTS

1988—Subsec. (b)(3). Pub. L. 100–456 added par. (3).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–456 effective Jan. 20, 1989, see section 702(e)(1) of Pub. L. 100–456, set out as a note under section 3016 of this title.

### § 5017. Secretary of the Navy: successors to duties

If the Secretary of the Navy dies, resigns, is removed from office, is absent, or is disabled, the person who is highest on the following list, and who is not absent or disabled, shall perform the duties of the Secretary until the President, under section 3347[1] of title 5, directs another person to perform those duties or until the absence or disability ceases:

(1) The Under Secretary of the Navy.

(2) The Assistant Secretaries of the Navy, in the order prescribed by the Secretary of the Navy and approved by the Secretary of Defense.

(3) The General Counsel of the Department of the Navy.

(4) The Chief of Naval Operations.

(5) The Commandant of the Marine Corps.

(Added Pub. L. 99–433, title V, § 511(c)(4), Oct. 1, 1986, 100 Stat. 1047; amended Pub. L. 103–337, div. A, title IX, § 902(b), Oct. 5, 1994, 108 Stat. 2823.)

REFERENCES IN TEXT

Section 3347 of title 5, referred to in text, was repealed and a new section 3347 was enacted by Pub. L. 105–277, div. C, title I, § 151(b), Oct. 21, 1998, 112 Stat. 2681–611, and, as so enacted, no longer contains provisions authorizing the President to direct temporary successors to duties. See section 3345 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5036 of this title prior to enactment of Pub. L. 99–433.

AMENDMENTS

1994—Pars. (3) to (5). Pub. L. 103–337 added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

ORDER OF SUCCESSION

For order of succession in event of death, permanent disability, or resignation of Secretary of the Navy, see Ex. Ord. No. 12879, Nov. 8, 1993, 58 F.R. 59929, set out as a note under section 3345 of Title 5.

### § 5018. Administrative Assistant

The Secretary of the Navy may appoint an Administrative Assistant in the Office of the Secretary of the Navy. The Administrative Assistant shall perform such duties as the Secretary may prescribe.

(Added Pub. L. 99–433, title V, § 511(c)(4), Oct. 1, 1986, 100 Stat. 1047.)

### § 5019. General Counsel

(a) There is a General Counsel of the Department of the Navy, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The General Counsel shall perform such functions as the Secretary of the Navy may prescribe.

(Added Pub. L. 99–433, title V, § 511(c)(4), Oct. 1, 1986, 100 Stat. 1047; amended Pub. L. 100–456, div. A, title VII, § 703(a), Sept. 29, 1988, 102 Stat. 1996.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–456 inserted ‘‘, by and with the advice and consent of the Senate’’ before period at end.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–456 applicable to appointments made under this section on and after Sept. 29, 1988, see section 703(c) of Pub. L. 100–456, set out as a note under section 3019 of this title.

### § 5020. Naval Inspector General: detail; duties

(a) There is in the Office of the Secretary of the Navy the Office of the Naval Inspector General. The Naval Inspector General shall be detailed from officers on the active-duty list in the line of the Navy serving in grades above captain.

(b) The Naval Inspector General, when directed, shall inquire into and report upon any matter that affects the discipline or military efficiency of the Department of the Navy. He shall make such inspections, investigations, and reports as the Secretary of the Navy or the Chief of Naval Operations directs.

(c) The Naval Inspector General shall cooperate fully with the Inspector General of the Department of Defense in connection with the performance of any duty or function by the Inspector General of the Department of Defense under

[1] See References in Text note below.

the Inspector General Act of 1978 (5 U.S.C. App. 3) regarding the Department of the Navy.

(d) The Naval Inspector General shall periodically propose programs of inspections to the Secretary of the Navy and shall recommend additional inspections and investigations as may appear appropriate.

(Aug. 10, 1956, ch. 1041, 70A Stat. 283, § 5088; Pub. L. 96–513, title V, § 503(7), Dec. 12, 1980, 94 Stat. 2911; renumbered § 5020 and amended Pub. L. 99–433, title V, § 511(c)(5), Oct. 1, 1986, 100 Stat. 1047.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5088(a), (b), (c). | 5 U.S.C. 423f. | Mar. 5, 1948, ch. 98, § 6, 62 Stat. 68. |
| 5088(d) ..... | 5 U.S.C. 423k (as applicable to the Naval Inspector General). | Mar. 5, 1948, ch. 98, § 11, 62 Stat. 69 (as applicable to the Naval Inspector General). |

In subsection (a) the words ''In addition to the divisions herein created'' are omitted as surplusage. The word ''detailed'' is added in order to show that the position of the Inspector General is not an appointive office.

In subsection (c) the words ''from time to time'' are omitted as surplusage.

Subsection (d) is worded to make clear that the Naval Inspector General may be designated, under 34 U.S.C. 211d, as an officer who performs unusual or special duty, and, if so designated, is entitled to the grade, pay, and retirement privilege accompanying the special designation. The words ''under section 5231 of this title'' are substituted for the words ''grade, rank, pay, and allowances provided under any provision of law heretofore or hereafter enacted which authorizes such grade, rank, pay, and allowances for officers so designated''.

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (c), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99–433, § 511(c)(5)(A), substituted ''Office of the Secretary of Navy'' for ''Office of the Chief of Naval Operations''.

Subsec. (c). Pub. L. 99–433, § 511(c)(5)(B), (C), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 99–433, § 511(c)(5)(B), redesignated former subsec. (c) as (d) and substituted ''Secretary of the Navy'' for ''Chief of Naval Operations''.

1980—Subsec. (a). Pub. L. 96–513, § 503(7)(A), substituted ''active-duty list'' for ''active list''.

Subsec. (d). Pub. L. 96–513, § 503(7)(B), struck out subsec. (d) which authorized the President to designate the Naval Inspector General as an officer who performs special or unusual duty or duty of great importance and responsibility under section 5231 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.

## [§ 5021. Repealed. Pub. L. 101–510, div. A, title IX, § 910(a), Nov. 5, 1990, 104 Stat. 1625]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 290, § 5150; Sept. 7, 1962, Pub. L. 87–649, § 14(c)(22), (23), 76 Stat. 501; Dec. 12, 1980, Pub. L. 96–513, title V, § 503(12), 94 Stat. 2912; renumbered § 5021, Oct. 1, 1986, Pub. L. 99–433, title V, § 511(d), 100 Stat. 1048, related to Office of Naval Research in Office of Secretary of the Navy headed by Chief of Naval Research, appointment to, term, and emoluments of such office, prerequisite for designation as Assistant Chief of Naval Research, and succession of duties of such office.

## § 5022. Office of Naval Research: duties

(a)(1) There is in the Office of the Secretary of the Navy an Office of Naval Research.

(2) Unless appointed to higher grade under another provision of law, an officer, while serving in the Office of Naval Research as Chief of Naval Research, has the rank of rear admiral.

(b) The Office of Naval Research shall perform such duties as the Secretary of the Navy prescribes relating to—

(1) the encouragement, promotion, planning, initiation, and coordination of naval research;

(2) the conduct of naval research in augmentation of and in conjunction with the research and development conducted by the bureaus and other agencies and offices of the Department of the Navy;

(3) the supervision, administration, and control of activities within or for the Department relating to patents, inventions, trademarks, copyrights, and royalty payments, and matters connected therewith; and

(4) the execution of, and management responsibility for, programs for which funds are provided in the basic and applied research and advanced technology categories of the Department of the Navy research, development, test, and evaluation budget in such a manner that will foster the transition of science and technology to higher levels of research, development, test, and evaluation.

(c) Sufficient information relative to estimates of appropriations for research by the several bureaus and offices shall be furnished to the Office of Naval Research to assist it in coordinating naval research and carrying out its other duties.

(d) The Office of Naval Research shall perform its duties under the authority of the Secretary, and its orders are considered as coming from the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 291, § 5151; renumbered § 5022, Pub. L. 99–433, title V, § 511(d), Oct. 1, 1986, 100 Stat. 1048; amended Pub. L. 101–510, div. A, title IX, § 910(b)(1), Nov. 5, 1990, 104 Stat. 1625; Pub. L. 104–201, div. A, title V, § 501(a), Sept. 23, 1996, 110 Stat. 2510; Pub. L. 106–398, § 1 [[div. A], title IX, § 904(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–225; Pub. L. 107–314, div. A, title V, § 504(f), Dec. 2, 2002, 116 Stat. 2533.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5151(a) ..... | 5 U.S.C. 475 (20th through 111th words). | Aug. 1, 1946, ch. 727, § 1 (22d through 114th words), 60 Stat. 779. |
| 5151(b) ..... | 5 U.S.C. 475d(a) (2d sentence). | Aug. 1, 1946, ch. 727, § 5(a) (2d sentence), 60 Stat. 780. |
| 5151(c) ..... | 5 U.S.C. 475 (2d sentence). | Aug. 1, 1946, ch. 727, § 1 (2d sentence), 60 Stat. 779. |

In subsection (c) the words ''shall have full force and effect as such'' are omitted as surplusage.

AMENDMENTS

2002—Subsec. (a)(2). Pub. L. 107–314 struck out ''(upper half)'' after ''rear admiral''.

2000—Subsec. (b)(4). Pub. L. 106–398 added par. (4).

1996—Subsec. (a). Pub. L. 104–201 designated existing provisions as par. (1) and added par. (2).

1990—Pub. L. 101–510 added subsec. (a) and redesignated former subsecs. (a) to (c) as (b) to (d), respectively.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 501(b) of Pub. L. 104–201 provided that: ''Paragraph (2) of section 5022(a) of title 10, United States Code, as added by subsection (a), shall take effect upon the occurrence of the first vacancy in the position of Chief of Naval Research after the date of the enactment of this Act [Sept. 23, 1996].''

DEMONSTRATION PROJECT TO INCREASE SMALL BUSINESS AND UNIVERSITY PARTICIPATION IN OFFICE OF NAVAL RESEARCH EFFORTS TO EXTEND BENEFITS OF SCIENCE AND TECHNOLOGY RESEARCH TO FLEET

Pub. L. 107–107, div. A, title II, § 262, Dec. 28, 2001, 115 Stat. 1044, provided that:

''(a) PROJECT REQUIRED.—The Secretary of the Navy, acting through the Chief of Naval Research, shall carry out a demonstration project to increase access to Navy facilities of small businesses and universities that are engaged in science and technology research beneficial to the fleet.

''(b) PROJECT ELEMENTS.—In carrying out the demonstration project, the Secretary shall—

''(1) establish and operate a Navy Technology Extension Center at a location to be selected by the Secretary;

''(2) permit participants in the Small Business Innovation Research Program (SBIR) and Small Business Technology Transfer Program (STTR) that are awarded contracts by the Office of Naval Research to access and use Navy Major Range Test Facilities Base (MRTFB) facilities selected by the Secretary for purposes of carrying out such contracts, and charge such participants for such access and use at the same established rates that Department of Defense customers are charged; and

''(3) permit universities, institutions of higher learning, and federally funded research and development centers collaborating with participants referred to in paragraph (2) to access and use such facilities for such purposes, and charge such entities for such access and use at such rates.

''(c) PERIOD OF PROJECT.—The demonstration project shall be carried out during the three-year period beginning on the date of the enactment of this Act [Dec. 28, 2001].

''(d) REPORT.—Not later than February 1, 2004, the Secretary shall submit to Congress a report on the demonstration project. The report shall include a description of the activities carried out under the demonstration project and any recommendations for the improvement or expansion of the demonstration project that the Secretary considers appropriate.''

## § 5023. Office of Naval Research: appropriations; time limit

(a) Sums appropriated for the Office of Naval Research may be used to pay the cost of performing its duties under section 5022 of this title including the cost of—

(1) administration;

(2) conduct of research and development work in Government facilities; and

(3) conduct of research and development work under contracts with individuals, corporations, and educational or scientific institutions.

(b) Sums appropriated for the purposes of this section, if obligated during the fiscal year for which appropriated, remain available for expenditure for four years after the end of that fiscal year. Any balance not spent after that four-year period shall be carried to the surplus fund and covered into the Treasury.

(Aug. 10, 1956, ch. 1041, 70A Stat. 291, § 5152; renumbered § 5023 and amended Pub. L. 99–433, title V, §§ 511(d), 514(c)(2), Oct. 1, 1986, 100 Stat. 1048, 1055.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5152 ..... | 5 U.S.C. 475d(a) (less 2d sentence). | Aug. 1, 1946, ch. 727, § 5 (a) (less 2d sentence), 60 Stat. 780. |
| | 5 U.S.C. 475d(b). | Aug. 1, 1946, ch. 727, § 5 (b), 60 Stat. 780. |

The authorization to make appropriations for the Office of Naval Research is omitted as unnecessary. The word ''administration'' is substituted for the words ''administrative expenses'' for brevity.

AMENDMENTS

1986—Pub. L. 99–433, § 511(d), renumbered section 5152 of this title as this section.

Subsec. (a). Pub. L. 99–433, § 514(c)(2), substituted ''section 5022'' for ''section 5151''.

## § 5024. Naval Research Advisory Committee

(a) The Secretary of the Navy may appoint a Naval Research Advisory Committee consisting of not more than 15 civilians preeminent in the fields of science, research, and development work. One member of the Committee must be from the field of medicine. Each member serves for such term as the Secretary specifies.

(b) The Committee shall meet at such times as the Secretary specifies to consult with and advise the Chief of Naval Operations and the Chief of Naval Research.

(c) No law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States applies to members of the Committee solely by reason of their membership on the Committee.

(Aug. 10, 1956, ch. 1041, 70A Stat. 291, § 5153; Pub. L. 97–60, title II, § 205, Oct. 14, 1981, 95 Stat. 1007; renumbered § 5024 and amended Pub. L. 99–433, title V, §§ 511(d), 514(d)(2), Oct. 1, 1986, 100 Stat. 1048, 1055.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5153 ..... | 5 U.S.C. 475c. | Aug. 1, 1946, ch. 727, § 4, 60 Stat. 779; Sept. 3, 1954, ch. 1263, § 12, 68 Stat. 1229. |

In subsection (c) the words ''in the amount'' are omitted as unnecessary.

In subsection (d) references to sections of title 18 and to R.S. 190 are omitted as unnecessary and the words ''No law'' are substituted for the words ''Nothing * * * in any other provision of Federal law''.

AMENDMENTS

1986—Pub. L. 99–433, § 511(d), renumbered section 5153 of this title as this section.

Subsec. (c). Pub. L. 99–433, § 514(d)(2), substituted ''claim, proceeding,'' for ''claim proceeding''.

1981—Subsecs. (c), (d). Pub. L. 97–60 redesignated subsec. (d) as (c). Former subsec. (c), which allowed each member of the Committee compensation of $50 for each day or part of a day that the member attended any regularly called meeting of the Committee and also allowed that member reimbursement for all travel expenses incident to that attendance, was struck out.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

### § 5025. Financial management

(a) The Secretary of the Navy shall provide that the Assistant Secretary of the Navy for Financial Management shall direct and manage financial management activities and operations of the Department of the Navy, including ensuring that financial management systems of the Department of the Navy comply with subsection (b). The authority of the Assistant Secretary for such direction and management shall include the authority to—

(1) supervise and direct the preparation of budget estimates of the Department of the Navy and otherwise carry out, with respect to the Department of the Navy, the functions specified for the Under Secretary of Defense (Comptroller) in section 135(c) of this title;

(2) approve and supervise any project to design or enhance a financial management system for the Department of the Navy; and

(3) approve the establishment and supervise the operation of any asset management system of the Department of the Navy, including—

(A) systems for cash management, credit management, and debt collection; and

(B) systems for the accounting for the quantity, location, and cost of property and inventory.

(b)(1) Financial management systems of the Department of the Navy (including accounting systems, internal control systems, and financial reporting systems) shall be established and maintained in conformance with—

(A) the accounting and financial reporting principles, standards, and requirements established by the Comptroller General under section 3511 of title 31; and

(B) the internal control standards established by the Comptroller General under section 3512 of title 31.

(2) Such systems shall provide for—

(A) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of department management;

(B) the development and reporting of cost information;

(C) the integration of accounting and budgeting information; and

(D) the systematic measurement of performance.

(c) The Assistant Secretary shall maintain a five-year plan describing the activities the Department of the Navy proposes to conduct over the next five fiscal years to improve financial management. Such plan shall be revised annually.

(d) The Assistant Secretary of the Navy for Financial Management shall transmit to the Secretary of the Navy a report each year on the activities of the Assistant Secretary during the preceding year. Each such report shall include a description and analysis of the status of Department of the Navy financial management.

(Added Pub. L. 100–456, div. A, title VII, § 702(b)(2), Sept. 29, 1988, 102 Stat. 1994; amended Pub. L. 103–337, div. A, title X, § 1070(a)(15), Oct. 5, 1994, 108 Stat. 2856; Pub. L. 104–106, div. A, title XV, § 1503(b)(1), Feb. 10, 1996, 110 Stat. 512.)

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–106 substituted ''Under Secretary of Defense (Comptroller)'' for ''Comptroller of the Department of Defense''.

1994—Subsec. (a)(1). Pub. L. 103–337 substituted ''135(c)'' for ''137(c)''.

EFFECTIVE DATE

Section effective Jan. 20, 1989, see section 702(e)(1) of Pub. L. 100–456, set out as an Effective Date of 1988 Amendment note under section 3016 of this title.

### § 5026. Consultation with Commandant of the Marine Corps on major decisions directly concerning Marine Corps aviation

The Secretary of the Navy shall ensure that the views of the Commandant of the Marine Corps are given appropriate consideration before a major decision is made by an element of the Department of the Navy outside the Marine Corps on a matter that directly concerns Marine Corps aviation.

(Added Pub. L. 105–261, div. A, title IX, § 935(a), Oct. 17, 1998, 112 Stat. 2109.)

### § 5027. Chief of Legislative Affairs

(a) There is a Chief of Legislative Affairs in the Department of the Navy. An officer assigned to that position shall be an officer in the grade of rear admiral.

(b) The Chief of Legislative Affairs shall perform legislative affairs functions as specified for the Office of the Secretary of the Navy by section 5014(c)(1)(F) of this title.

(Added Pub. L. 107–314, div. A, title V, § 504(d)(1)(A), Dec. 2, 2002, 116 Stat. 2532.)

### § 5028. Director of Small Business Programs

(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of the Navy. The Director is appointed by the Secretary of the Navy.

(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of the Navy is the office that is established within the Department of the Navy

under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of the Navy, and shall exercise such powers regarding those programs, as the Secretary of the Navy may prescribe.

(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.

(Added Pub. L. 109–163, div. A, title IX, § 904(d)(1), Jan. 6, 2006, 119 Stat. 3401.)

CHANGE OF NAME

The Director of Small and Disadvantaged Business Utilization of the Department of the Navy and the Office of Small and Disadvantaged Business Utilization of the Department of the Navy were redesignated the Director of Small Business Programs of the Department of the Navy and the Office of Small Business Programs of the Department of the Navy, respectively, by Pub. L. 109–163 which also provided that references to the former were deemed to refer to the latter. See section 904(a) of Pub. L. 109–163, set out as a note under section 144 of this title.

## CHAPTER 505—OFFICE OF THE CHIEF OF NAVAL OPERATIONS

Sec.
5031. Office of the Chief of Naval Operations: function; composition.
5032. Office of the Chief of Naval Operations: general duties.
5033. Chief of Naval Operations.
[5034. Repealed.]
5035. Vice Chief of Naval Operations.
5036. Deputy Chiefs of Naval Operations.
5037. Assistant Chiefs of Naval Operations.
5038. Director for Expeditionary Warfare.

AMENDMENTS

1996—Pub. L. 104–106, div. A, title V, § 502(d)(2), Feb. 10, 1996, 110 Stat. 293, struck out item 5034 ''Chief of Naval Operations: retirement''.

1992—Pub. L. 102–484, div. A, title IX, § 935(b)(2), Oct. 23, 1992, 106 Stat. 2478, added item 5038.

1986—Pub. L. 99–433, title V, § 512(b), Oct. 1, 1986, 100 Stat. 1048, inserted heading for new chapter 505 relating to the Office of The Chief of Naval Operations, and items 5031 to 5037. The heading for former chapter 505 relating to Secretary, Under Secretary, and Assistant Secretaries of the Navy, and former items 5031 to 5036 were struck out as part of the repeal of former chapter 505 by Pub. L. 99–433, title V, § 511(e), Oct. 1, 1986, 100 Stat. 1048.

### § 5031. Office of the Chief of Naval Operations: function; composition

(a) There is in the executive part of the Department of the Navy an Office of the Chief of Naval Operations. The function of the Office of the Chief of Naval Operations is to assist the Secretary of the Navy in carrying out his responsibilities.

(b) The Office of the Chief of Naval Operations is composed of the following:

(1) The Chief of Naval Operations.
(2) The Vice Chief of Naval Operations.
(3) The Deputy Chiefs of Naval Operations.
(4) The Assistant Chiefs of Naval Operations.
(5) The Surgeon General of the Navy.
(6) The Chief of Naval Personnel.
(7) The Chief of Chaplains of the Navy.
(8) Other members of the Navy and Marine Corps assigned or detailed to the Office of the Chief of Naval Operations.
(9) Civilian employees in the Department of the Navy assigned or detailed to the Office of the Chief of Naval Operations.

(c) Except as otherwise specifically prescribed by law, the Office of the Chief of Naval Operations shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

(Added Pub. L. 99–433, title V, § 512(b), Oct. 1, 1986, 100 Stat. 1048.)

PRIOR PROVISIONS

A prior section 5031, acts Aug. 10, 1956, ch. 1041, 70A Stat. 278; Sept. 2, 1958, Pub. L. 85–861, § 1(107), 72 Stat. 1490; Sept. 7, 1962, Pub. L. 87–651, title II, § 211, 76 Stat. 524; Aug. 14, 1964, Pub. L. 88–426, title III, §§ 305(4), 306(j)(3), 78 Stat. 422, 431; Oct. 14, 1981, Pub. L. 97–60, title II, § 204(a)(1), 95 Stat. 1007, related to Secretary of the Navy and responsibilities of Secretary, prior to repeal by Pub. L. 99–433, § 511(e). See section 5013 of this title.

### § 5032. Office of the Chief of Naval Operations: general duties

(a) The Office of the Chief of Naval Operations shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Navy and to the Chief of Naval Operations.

(b) Under the authority, direction, and control of the Secretary of the Navy, the Office of the Chief of Naval Operations shall—

(1) subject to subsections (c) and (d) of section 5014 of this title, prepare for such employment of the Navy, and for such recruiting, organizing, supplying, equipping (including those aspects of research and development assigned by the Secretary of the Navy), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Navy, as will assist in the execution of any power, duty, or function of the Secretary or the Chief of Naval Operations;

(2) investigate and report upon the efficiency of the Navy and its preparation to support military operations by combatant commands;

(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

(4) as directed by the Secretary or the Chief of Naval Operations, coordinate the action of organizations of the Navy; and

(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

(Added Pub. L. 99–433, title V, § 512(b), Oct. 1, 1986, 100 Stat. 1049.)

PRIOR PROVISIONS

A prior section 5032 was renumbered section 5013a of this title.

### § 5033. Chief of Naval Operations

(a)(1) There is a Chief of Naval Operations, appointed by the President, by and with the advice

and consent of the Senate. The Chief of Naval Operations shall be appointed for a term of four years, from the flag officers of the Navy. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

(2) The President may appoint an officer as the Chief of Naval Operations only if—

(A) the officer has had significant experience in joint duty assignments; and

(B) such experience includes at least one full tour of duty in a joint duty assignment (as defined in section 664(f) of this title) as a flag officer.

(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

(b) The Chief of Naval Operations, while so serving, has the grade of admiral without vacating his permanent grade. In the performance of his duties within the Department of the Navy, the Chief of Naval Operations takes precedence above all other officers of the naval service.

(c) Except as otherwise prescribed by law and subject to section 5013(f) of this title, the Chief of Naval Operations performs his duties under the authority, direction, and control of the Secretary of the Navy and is directly responsible to the Secretary.

(d) Subject to the authority, direction, and control of the Secretary of the Navy, the Chief of Naval Operations shall—

(1) preside over the Office of the Chief of Naval Operations;

(2) transmit the plans and recommendations of the Office of the Chief of Naval Operations to the Secretary and advise the Secretary with regard to such plans and recommendations;

(3) after approval of the plans or recommendations of the Office of the Chief of Naval Operations by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Navy and the Marine Corps as the Secretary determines;

(5) perform the duties prescribed for him by section 171 of this title and other provisions of law; and

(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Navy.

(e)(1) The Chief of Naval Operations shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

(2) To the extent that such action does not impair the independence of the Chief of Naval Operations in the performance of his duties as a member of the Joint Chiefs of Staff, the Chief of Naval Operations shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Navy.

(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief of Naval Operations shall keep the Secretary of the Navy fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

(Added Pub. L. 99–433, title V, § 512(b), Oct. 1, 1986, 100 Stat. 1049; amended Pub. L. 100–456, div. A, title V, § 519(a)(3), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 108–136, div. A, title V, § 501(a), Nov. 24, 2003, 117 Stat. 1456.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 5081 and 5082 of this title prior to enactment of Pub. L. 99–433.

A prior section 5033, acts Aug. 10, 1956, ch. 1041, 70A Stat. 279; Sept. 2, 1958, Pub. L. 85–861, § 1(108), 72 Stat. 1490; Aug. 14, 1964, Pub. L. 88–426, title III, §§ 305(5), 306(j)(5), 78 Stat. 422, 432, related to appointment and duties of Under Secretary of the Navy, prior to repeal by Pub. L. 99–433, § 511(e). See section 5015 of this title.

AMENDMENTS

2003—Subsec. (a)(1). Pub. L. 108–136 substituted ''from the flag officers of the Navy'' for ''from officers on the active-duty list in the line of the Navy who are eligible to command at sea and who hold the grade of rear admiral or above''.

1988—Subsec. (a)(2)(B). Pub. L. 100–456 substituted ''full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)'' for ''joint duty assignment''.

REAPPOINTMENT OF INCUMBENT CHIEF OF NAVAL OPERATIONS

Pub. L. 108–136, div. A, title V, § 508, Nov. 24, 2003, 117 Stat. 1458, provided that: ''Notwithstanding the provisions of section 5033(a)(1) of title 10, United States Code, the President, by and with the advice and consent of the Senate, may reappoint the officer serving as Chief of Naval Operations on October 1, 2003, for an additional term as Chief of Naval Operations. Such a reappointment shall be for a term of not more than two years.''

WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS SERVICE CHIEF

For provisions giving President temporary authority to waive requirements in subsec. (a)(2) of this section, see section 532(c) of Pub. L. 99–433, formerly set out as a note under section 3033 of this title.

### [§ 5034. Repealed. Pub. L. 104–106, div. A, title V, § 502(c), Feb. 10, 1996, 110 Stat. 293]

Section, added Pub. L. 99–433, title V, § 512(b), Oct. 1, 1986, 100 Stat. 1050; amended Pub. L. 102–190, div. A, title V, § 505(a), Dec. 5, 1991, 105 Stat. 1358, related to retirement of Chief of Naval Operations.

A prior section 5034, acts Aug. 10, 1956, ch. 1041, 70A Stat. 279; Aug. 6, 1958, Pub. L. 85–599, § 8(b)(1), 72 Stat. 519; Dec. 1, 1967, Pub. L. 90–168, § 2(13), (14), 81 Stat. 523; Nov. 9, 1979, Pub. L. 96–107, title VIII, § 820(c), 93 Stat. 819; Sept. 24, 1983, Pub. L. 98–94, title XII, § 1212(c)(2), 97 Stat. 687, related to appointment and duties of Assistant Secretaries of the Navy, prior to repeal by Pub. L. 99–433, § 511(e). See section 5016 of this title.

### § 5035. Vice Chief of Naval Operations

(a) There is a Vice Chief of Naval Operations, appointed by the President, by and with the advice and consent of the Senate, from officers on the active-duty list in the line of the Navy serving in grades above captain and eligible to command at sea.

(b) The Vice Chief of Naval Operations, while so serving, has the grade of admiral without vacating his permanent grade.

(c) The Vice Chief of Naval Operations has such authority and duties with respect to the Department of the Navy as the Chief of Naval Operations, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Vice Chief of Naval Operations in performing such duties have the same effect as those issued by the Chief of Naval Operations.

(d) When there is a vacancy in the office of Chief of Naval Operations or during the absence or disability of the Chief of Naval Operations—

(1) the Vice Chief of Naval Operations shall perform the duties of the Chief of Naval Operations until a successor is appointed or the absence or disability ceases; or

(2) if there is a vacancy in the office of the Vice Chief of Naval Operations or the Vice Chief of Naval Operations is absent or disabled, unless the President directs otherwise, the most senior officer of the Navy in the Office of the Chief of Naval Operations who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Naval Operations until a successor to the Chief of Naval Operations or the Vice Chief of Naval Operations is appointed or until the absence or disability of the Chief of Naval Operations or Vice Chief of Naval Operations ceases, whichever occurs first.

(Added Pub. L. 99–433, title V, § 512(b), Oct. 1, 1986, 100 Stat. 1050.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5085 of this title prior to enactment of Pub. L. 99–433.

A prior section 5035, act Aug. 10, 1956, ch. 1041, 70A Stat. 279, authorized an Assistant Secretary of the Navy for Air, provided for his appointment and duties, and prescribed his compensation, prior to repeal by Pub. L. 85–599, § 8(b)(2), Aug. 6, 1958, 72 Stat. 519, eff. six months after Aug. 6, 1958. Subsec. (c) was also repealed by Pub. L. 85–861, § 36B(12), Sept. 2, 1958, 72 Stat. 1571.

### § 5036. Deputy Chiefs of Naval Operations

(a) There are in the Office of the Chief of Naval Operations not more than five Deputy Chiefs of Naval Operations, detailed by the Secretary of the Navy from officers on the active-duty list of the Navy serving in grades above captain.

(b) The Deputy Chiefs of Naval Operations are charged, under the direction of the Chief of Naval Operations, with the execution of the functions of their respective divisions. Orders issued by the Deputy Chiefs of Naval Operations in performing the duties assigned them are considered as coming from the Chief of Naval Operations.

(Added Pub. L. 99–433, title V, § 512(b), Oct. 1, 1986, 100 Stat. 1051; amended Pub. L. 108–375, div. A, title V, § 502(a), Oct. 28, 2004, 118 Stat. 1875.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5086 of this title prior to enactment of Pub. L. 99–433.

A prior section 5036, acts Aug. 10, 1956, ch. 1041, 70A Stat. 280; Nov. 2, 1966, Pub. L. 89–718, § 32, 80 Stat. 1119; Jan. 2, 1968, Pub. L. 90–235, § 4(a)(8), 81 Stat. 759; Dec. 12, 1980, Pub. L. 96–513, title V, § 513(4), 94 Stat. 2931, related to succession to duties of Secretary of the Navy, prior to repeal by Pub. L. 99–433, § 511(e). See section 5017 of this title.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–375 struck out ''in the line'' after ''active-duty list''.

### § 5037. Assistant Chiefs of Naval Operations

(a) There are in the Office of the Chief of Naval Operations not more than three Assistant Chiefs of Naval Operations, detailed by the Secretary of the Navy from officers on the active-duty list of the Navy and officers on the active-duty list of the Marine Corps.

(b) The Assistant Chiefs of Naval Operations shall perform such duties as the Secretary of the Navy prescribes.

(Added Pub. L. 99–433, title V, § 512(b), Oct. 1, 1986, 100 Stat. 1051; amended Pub. L. 108–375, div. A, title V, § 502(b), Oct. 28, 2004, 118 Stat. 1875.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5087 of this title prior to enactment of Pub. L. 99–433.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–375 struck out ''in the line'' before ''of the Navy''.

### § 5038. Director for Expeditionary Warfare

(a) One of the Directors within the office of the Deputy Chief of Naval Operations with responsibility for warfare requirements and programs shall be the Director for Expeditionary Warfare who shall be detailed from officers on the active-duty list of the Marine Corps.

(b) An officer assigned to the position of Director for Expeditionary Warfare, while so serving, has the grade of major general.

(c) The principal duty of the Director for Expeditionary Warfare shall be to supervise the performance of all staff responsibilities of the Chief of Naval Operations regarding expeditionary warfare, including responsibilities regarding amphibious lift, mine warfare, naval fire support, and other missions essential to supporting expeditionary warfare.

(d) The Chief of Naval Operations shall transfer duties, responsibilities, and staff from other personnel within the Office of the Chief of Naval Operations as necessary to fully support the Director for Expeditionary Warfare.

(Added Pub. L. 102–484, div. A, title IX, § 935(b)(1), Oct. 23, 1992, 106 Stat. 2478; amended Pub. L. 103–35, title II, § 201(c)(10), May 31, 1993, 107 Stat. 98; Pub. L. 103–160, div. A, title IX, § 944, Nov. 30, 1993, 107 Stat. 1737; Pub. L. 107–107, div. A, title IX, § 932, Dec. 28, 2001, 115 Stat. 1200.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–107 substituted ''office of the Deputy Chief of Naval Operations with responsibility for warfare requirements and programs'' for ''Office of the Deputy Chief of Naval Operations for Resources, Warfare Requirements, and Assessments''.

1993—Subsec. (e). Pub. L. 103–160 struck out subsec. (e) which read as follows: ''This section shall cease to apply on November 1, 1997.''

Pub. L. 103–35 substituted ''section'' for ''subsection''.

## CHAPTER 506—HEADQUARTERS, MARINE CORPS

Sec.
5041. Headquarters, Marine Corps: function; composition.
5042. Headquarters, Marine Corps: general duties.
5043. Commandant of the Marine Corps.
5044. Assistant Commandant of the Marine Corps.
5045. Deputy Commandants.
5046. Staff Judge Advocate to the Commandant of the Marine Corps.
5047. Legislative Assistant to the Commandant.

AMENDMENTS

2002—Pub. L. 107–314, div. A, title V, § 504(d)(3)(B), Dec. 2, 2002, 116 Stat. 2532, added item 5047.

2000—Pub. L. 106–398, § 1 [[div. A], title IX, § 902(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–224, substituted ''Deputy Commandants'' for ''Chief of Staff; Deputy and Assistant Chiefs of Staff'' in item 5045.

1986—Pub. L. 99–661, div. A, title V, § 509(a)(2), Nov. 14, 1986, 100 Stat. 3868, added item 5046.

### § 5041. Headquarters, Marine Corps: function; composition

(a) There is in the executive part of the Department of the Navy a Headquarters, Marine Corps. The function of the Headquarters, Marine Corps, is to assist the Secretary of the Navy in carrying out his responsibilities.

(b) The Headquarters, Marine Corps, is composed of the following:

(1) The Commandant of the Marine Corps.

(2) The Assistant Commandant of the Marine Corps.

(3) The Deputy Commandants.

(4) Other members of the Navy and Marine Corps assigned or detailed to the Headquarters, Marine Corps.

(5) Civilian employees in the Department of the Navy assigned or detailed to the Headquarters, Marine Corps.

(c) Except as otherwise specifically prescribed by law, the Headquarters, Marine Corps, shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

(Added Pub. L. 99–433, title V, § 513(b), Oct. 1, 1986, 100 Stat. 1052; amended Pub. L. 106–398, § 1 [[div. A], title IX, § 902(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–224.)

AMENDMENTS

2000—Subsec. (b)(3) to (7). Pub. L. 106–398 added par. (3), redesignated pars. (6) and (7) as (4) and (5), respectively, and struck out former pars. (3) to (5) which read as follows:

''(3) The Chief of Staff of the Marine Corps.

''(4) The Deputy Chiefs of Staff.

''(5) The Assistant Chiefs of Staff.''

### § 5042. Headquarters, Marine Corps: general duties

(a) The Headquarters, Marine Corps, shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Navy and to the Commandant of the Marine Corps.

(b) Under the authority, direction, and control of the Secretary of the Navy, the Headquarters, Marine Corps, shall—

(1) subject to subsections (c) and (d) of section 5014 of this title, prepare for such employment of the Marine Corps, and for such recruiting, organizing, supplying, equipping (including research and development), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Marine Corps, as will assist in the execution of any power, duty, or function of the Secretary or the Commandant;

(2) investigate and report upon the efficiency of the Marine Corps and its preparation to support military operations by combatant commanders;

(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

(4) as directed by the Secretary or the Commandant, coordinate the action of organizations of the Marine Corps; and

(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

(Added Pub. L. 99–433, title V, § 513(b), Oct. 1, 1986, 100 Stat. 1052.)

### § 5043. Commandant of the Marine Corps

(a)(1) There is a Commandant of the Marine Corps, appointed by the President, by and with the advice and consent of the Senate. The Commandant shall be appointed for a term of four years from the general officers of the Marine Corps. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

(2) The President may appoint an officer as Commandant of the Marine Corps only if—

(A) the officer has had significant experience in joint duty assignments; and

(B) such experience includes at least one full tour of duty in a joint duty assignment (as defined in section 664(f) of this title) as a general officer.

(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

(b) The Commandant of the Marine Corps, while so serving, has the grade of general without vacating his permanent grade.

[(c) Repealed. Pub. L. 104–106, div. A, title V, § 502(c), Feb. 10, 1996, 110 Stat. 293.]

(d) Except as otherwise prescribed by law and subject to section 5013(f) of this title, the Commandant performs his duties under the authority, direction, and control of the Secretary of the Navy and is directly responsible to the Secretary.

(e) Subject to the authority, direction, and control of the Secretary of the Navy, the Commandant shall—

(1) preside over the Headquarters, Marine Corps;

(2) transmit the plans and recommendations of the Headquarters, Marine Corps, to the Secretary and advise the Secretary with regard to such plans and recommendations;

(3) after approval of the plans or recommendations of the Headquarters, Marine

Corps, by the Secretary, act as the agent of the Secretary in carrying them into effect;

(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Marine Corps and the Navy as the Secretary determines;

(5) perform the duties prescribed for him by section 171 of this title and other provisions of law; and

(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Navy.

(f)(1) The Commandant shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

(2) To the extent that such action does not impair the independence of the Commandant in the performance of his duties as a member of the Joint Chiefs of Staff, the Commandant shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Navy.

(3) Subject to the authority, direction, and control of the Secretary of Defense, the Commandant shall keep the Secretary of the Navy fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

(Added Pub. L. 99–433, title V, § 513(b), Oct. 1, 1986, 100 Stat. 1052; amended Pub. L. 100–456, div. A, title V, § 519(a)(3), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 102–190, div. A, title V, § 505(b), Dec. 5, 1991, 105 Stat. 1358; Pub. L. 104–106, div. A, title V, § 502(c), Feb. 10, 1996, 110 Stat. 293; Pub. L. 108–136, div. A, title V, § 501(b), Nov. 24, 2003, 117 Stat. 1456.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5201 of this title prior to enactment of Pub. L. 99–433.

AMENDMENTS

2003—Subsec. (a)(1). Pub. L. 108–136 substituted ''from the general officers of the Marine Corps'' for ''from officers on the active-duty list of the Marine Corps not below the grade of colonel''.

1996—Subsec. (c). Pub. L. 104–106 struck out subsec. (c) which read as follows: ''An officer who is retired while serving as Commandant of the Marine Corps, or who, after serving at least two and one-half years as Commandant, is retired after completion of that service while serving in a lower grade than general, may, in the discretion of the President and by and with the advice and consent of the Senate, be retired with the grade of general.''

1991—Subsec. (c). Pub. L. 102–190 inserted ''and by and with the advice and consent of the Senate'' after ''President''.

1988—Subsec. (a)(2)(B). Pub. L. 100–456 substituted ''full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)'' for ''joint duty assignment''.

WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS SERVICE CHIEF

For provisions giving President temporary authority to waive requirements in subsec. (a)(2) of this section, see section 532(c) of Pub. L. 99–433, formerly set out as a note under section 3033 of this title.

## § 5044. Assistant Commandant of the Marine Corps

(a) There is an Assistant Commandant of the Marine Corps, appointed by the President, by and with the advice and consent of the Senate, from officers on the active-duty list of the Marine Corps not restricted in the performance of duty.

(b) The Assistant Commandant of the Marine Corps, while so serving, has the grade of general without vacating his permanent grade.

(c) The Assistant Commandant has such authority and duties with respect to the Marine Corps as the Commandant, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Assistant Commandant in performing such duties have the same effect as those issued by the Commandant.

(d) When there is a vacancy in the office of Commandant of the Marine Corps, or during the absence or disability of the Commandant—

(1) the Assistant Commandant of the Marine Corps shall perform the duties of the Commandant until a successor is appointed or the absence or disability ceases; or

(2) if there is a vacancy in the office of the Assistant Commandant of the Marine Corps or the Assistant Commandant is absent or disabled, unless the President directs otherwise, the most senior officer of the Marine Corps in the Headquarters, Marine Corps, who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Commandant until a successor to the Commandant or the Assistant Commandant is appointed or until the absence or disability of the Commandant or Assistant Commandant ceases, whichever occurs first.

(Added Pub. L. 99–433, title V, § 513(b), Oct. 1, 1986, 100 Stat. 1054.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5202 of this title prior to enactment of Pub. L. 99–433.

## § 5045. Deputy Commandants

There are in the Headquarters, Marine Corps, not more than six Deputy Commandants, detailed by the Secretary of the Navy from officers on the active-duty list of the Marine Corps.

(Added Pub. L. 99–433, title V, § 513(b), Oct. 1, 1986, 100 Stat. 1054; amended Pub. L. 106–398, § 1 [[div. A], title IX, § 902(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–224; Pub. L. 107–314, div. A, title IX, § 934, Dec. 2, 2002, 116 Stat. 2626.)

AMENDMENTS

2002—Pub. L. 107–314 substituted ''six'' for ''five''.

2000—Pub. L. 106–398 amended section catchline and text generally. Prior to amendment, text read as follows: ''There are in the Headquarters, Marine Corps, a Chief of Staff, not more than five Deputy Chiefs of Staff, and not more than three Assistant Chiefs of Staff, detailed by the Secretary of the Navy from officers on the active-duty list of the Marine Corps.''

### § 5046. Staff Judge Advocate to the Commandant of the Marine Corps

(a) An officer of the Marine Corps who is a judge advocate and a member of the bar of a Federal court or the highest court of a State or territory and who has had at least eight years of experience in legal duties as a commissioned officer may be detailed as Staff Judge Advocate to the Commandant of the Marine Corps. If an officer appointed as the Staff Judge Advocate to the Commandant of the Marine Corps holds a lower regular grade, the officer shall be appointed in the regular grade of brigadier general.

(b) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Staff Judge Advocate to the Commandant of the Marine Corps, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.

(c) No officer or employee of the Department of Defense may interfere with—

(1) the ability of the Staff Judge Advocate to the Commandant of the Marine Corps to give independent legal advice to the Commandant of the Marine Corps; or

(2) the ability of judge advocates of the Marine Corps assigned or attached to, or performing duty with, military units to give independent legal advice to commanders.

(Added Pub. L. 99–661, div. A, title V, § 509(a)(1), Nov. 14, 1986, 100 Stat. 3868; amended Pub. L. 103–337, div. A, title V, § 504(b)(4), Oct. 5, 1994, 108 Stat. 2751; Pub. L. 108–375, div. A, title V, § 574(b)(2), Oct. 28, 2004, 118 Stat. 1922.)

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–375 added subsec. (c).

1994—Subsec. (a). Pub. L. 103–337, § 504(b)(4)(A), added second sentence and struck out former second sentence which read as follows: ''While so serving, a judge advocate who holds a grade lower than brigadier general shall hold the grade of brigadier general if appointed to that grade by the President, by and with the advice and consent of the Senate.''

Subsec. (b). Pub. L. 103–337, § 504(b)(4)(B), added subsec. (b) and struck out former subsec. (b) which read as follows: ''An officer retiring from the position of Staff Judge Advocate to the Commandant of the Marine Corps, after serving at least three years in that position, shall be retired in the highest grade in which that officer served on active duty satisfactorily, as determined by the Secretary of the Navy.''

EFFECTIVE DATE

Section 509(b) of Pub. L. 99–661 provided that: ''Section 5046 of title 10, United States Code, as added by subsection (a), shall apply only with respect to appointments as Staff Judge Advocate to the Commandant of the Marine Corps made on or after the date of the enactment of this Act [Nov. 14, 1986].''

TRANSITION PROVISION FOR RETIREMENT OF STAFF JUDGE ADVOCATES

Section 509(d) of Pub. L. 99–661 provided that: ''Notwithstanding section 1370(a)(2) of title 10, United States Code, an officer serving in the position of Staff Judge Advocate to the Commandant of the Marine Corps, or an equivalent position, on the day before the date of the enactment of this Act [Nov. 14, 1986], if retired after having served in such position (or equivalent position) at least three years, including any service in such position (or its equivalent) before such date, shall be retired in the highest grade in which the officer served on active duty satisfactorily, as determined by the Secretary of the Navy.''

### § 5047. Legislative Assistant to the Commandant

There is in the Marine Corps a Legislative Assistant to the Commandant. An officer assigned to that position shall be in a grade above colonel.

(Added Pub. L. 107–314, div. A, title V, § 504(d)(3)(A), Dec. 2, 2002, 116 Stat. 2532.)

## CHAPTER 507—COMPOSITION OF THE DEPARTMENT OF THE NAVY

Sec.
5061. Department of the Navy: composition.
5062. United States Navy: composition; functions.
5063. United States Marine Corps: composition; functions.

AMENDMENTS

1986—Pub. L. 99–433, title V, § 511(b)(1), Oct. 1, 1986, 100 Stat. 1042, inserted heading for new chapter 507 relating to composition of the Department of the Navy, and items 5061 to 5063. The heading for former chapter 507, relating to Office of the Comptroller of the Navy, and former items 5061 to 5064 were struck out as part of the repeal of former chapter 507 by Pub. L. 99–433, title V, § 511(a), Oct. 1, 1986, 100 Stat. 1042.

### § 5061. Department of the Navy: composition

The Department of the Navy is composed of the following:

(1) The Office of the Secretary of the Navy.

(2) The Office of the Chief of Naval Operations.

(3) The Headquarters, Marine Corps.

(4) The entire operating forces, including naval aviation, of the Navy and of the Marine Corps, and the reserve components of those operating forces.

(5) All field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Secretary of the Navy.

(6) The Coast Guard when it is operating as a service in the Navy.

(Added Pub. L. 99–433, title V, § 511(b)(1), Oct. 1, 1986, 100 Stat. 1043.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 5011 of this title prior to enactment of Pub. L. 99–433.

A prior section 5061, act Aug. 10, 1956, ch. 1041, 70A Stat. 280, related to appointment and functions of Comptroller of the Navy, prior to repeal by Pub. L. 99–433, § 511(a).

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### § 5062. United States Navy: composition; functions

(a) The Navy, within the Department of the Navy, includes, in general, naval combat and service forces and such aviation as may be organic therein. The Navy shall be organized, trained, and equipped primarily for prompt and sustained combat incident to operations at sea. It is responsible for the preparation of naval forces necessary for the effective prosecution of war except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Navy to meet the needs of war.

(b) The naval combat forces of the Navy shall include not less than 12 operational aircraft carriers. For purposes of this subsection, an operational aircraft carrier includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routine or scheduled maintenance or repair.

(c) All naval aviation shall be integrated with the naval service as part thereof within the Department of the Navy. Naval aviation consists of combat and service and training forces, and includes land-based naval aviation, air transport essential for naval operations, all air weapons and air techniques involved in the operations and activities of the Navy, and the entire remainder of the aeronautical organization of the Navy, together with the personnel necessary therefor.

(d) The Navy shall develop aircraft, weapons, tactics, technique, organization, and equipment of naval combat and service elements. Matters of joint concern as to these functions shall be coordinated between the Army, the Air Force, and the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 277, § 5012; renumbered § 5062 and amended Pub. L. 99–433, title V, § 511(b)(3), (4), Oct. 1, 1986, 100 Stat. 1043; Pub. L. 109–163, div. A, title I, § 126(a), Jan. 6, 2006, 119 Stat. 3159.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5012 ..... | 5 U.S.C. 411a(b). | July 26, 1947, ch. 343, § 206(b), 61 Stat. 501. |

PRIOR PROVISIONS

A prior section 5062, act Aug. 10, 1956, ch. 1041, 70A Stat. 281, prescribed the pay and allowances of the Deputy Comptroller, prior to repeal by Pub. L. 87–649, § 14c(11), Sept. 7, 1962, 76 Stat. 501, eff. Nov. 1, 1962.

AMENDMENTS

2006—Subsecs. (b) to (d). Pub. L. 109–163 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1986—Pub. L. 99–433, § 511(b)(3), renumbered section 5012 of this title as this section.

Subsec. (a). Pub. L. 99–433, § 511(b)(4)(A), substituted ''assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Navy to meet the needs of war'' for ''assigned and is generally responsible for naval reconnaissance, antisubmarine warfare, and protection of shipping''.

Subsec. (d). Pub. L. 99–433, § 511(b)(4)(B), struck out subsec. (d) which related to responsibility for expansion of peacetime naval components to meet the needs of war.

### § 5063. United States Marine Corps: composition; functions

(a) The Marine Corps, within the Department of the Navy, shall be so organized as to include not less than three combat divisions and three air wings, and such other land combat, aviation, and other services as may be organic therein. The Marine Corps shall be organized, trained, and equipped to provide fleet marine forces of combined arms, together with supporting air components, for service with the fleet in the seizure or defense of advanced naval bases and for the conduct of such land operations as may be essential to the prosecution of a naval campaign. In addition, the Marine Corps shall provide detachments and organizations for service on armed vessels of the Navy, shall provide security detachments for the protection of naval property at naval stations and bases, and shall perform such other duties as the President may direct. However, these additional duties may not detract from or interfere with the operations for which the Marine Corps is primarily organized.

(b) The Marine Corps shall develop, in coordination with the Army and the Air Force, those phases of amphibious operations that pertain to the tactics, technique, and equipment used by landing forces.

(c) The Marine Corps is responsible, in accordance with integrated joint mobilization plans, for the expansion of peacetime components of the Marine Corps to meet the needs of war.

(Aug. 10, 1956, ch. 1041, 70A Stat. 278, § 5013; renumbered § 5063, Pub. L. 99–433, title V, § 511(b)(3), Oct. 1, 1986, 100 Stat. 1043.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5013 ..... | 5 U.S.C. 411a(c) (less last 32 words of 1st sentence). | July 26, 1947, ch. 343, § 206(c) (less last 32 words of 1st sentence), 61 Stat. 502; as amended June 28, 1952, ch. 479, § 1, 66 Stat. 282. |

PRIOR PROVISIONS

A prior section 5063, act Aug. 10, 1956, ch. 1041, 70A Stat. 281, related to establishment and duties of Office of Budget and Reports, prior to repeal by Pub. L. 99–433, § 511(a).

A prior section 5064, acts Aug. 10, 1956, ch. 1041, 70A Stat. 281; Sept. 7, 1962, Pub. L. 87–649, § 14(c)(12), (13), 76 Stat. 501; Dec. 12, 1980, Pub. L. 96–513, title III, § 341, title V, § 503(3), 94 Stat. 2901, 2911, related to Director and Assistant of Office of Budget and Reports, prior to repeal by Pub. L. 99–433, § 511(a).

## [CHAPTER 509—REPEALED]

### [§§ 5081 to 5087. Repealed. Pub. L. 99–433, title V, § 512(a), Oct. 1, 1986, 100 Stat. 1048]

Section 5081, acts Aug. 10, 1956, ch. 1041, 70A Stat. 281; Aug. 6, 1958, Pub. L. 85–599, § 4(b), 72 Stat. 516; Sept. 7, 1962, Pub. L. 87–651, title I, §§ 114, 120, 76 Stat. 513; June 5, 1967, Pub. L. 90–22, title IV, § 402, 81 Stat. 53; Dec. 12, 1980, Pub. L. 96–513, title V, § 503(3), 94 Stat. 2911, related to appointment, term of office, rank, and functions of Chief of Naval Operations. See section 5033 of this title.

Section 5082, acts Aug. 10, 1956, ch. 1041, 70A Stat. 282; Sept. 7, 1962, Pub. L. 87–651, title I, § 121, 76 Stat. 513; Nov. 2, 1966, Pub. L. 89–718, § 33, 80 Stat. 1119, related to coordinating duties of Chief of Naval Operations. See section 5032 of this title.

Section 5083, acts Aug. 10, 1956, ch. 1041, 70A Stat. 282; May 20, 1958, Pub. L. 85–422, § 6(2), 72 Stat. 129; July 1, 1986, Pub. L. 99–348, title I, § 104(c)(1), 100 Stat. 691, related to retirement of Chief of Naval Operations.

Section 5084, act Aug. 10, 1956, ch. 1041, 70A Stat. 282, related to quarters for Chief of Naval Operations.

Section 5085, acts Aug. 10, 1956, ch. 1041, 70A Stat. 283; Aug. 6, 1958, Pub. L. 85–599, § 6(b), 72 Stat. 519; Dec. 12, 1980, Pub. L. 96–513, title V, § 503(4), 94 Stat. 2911, related to appointment, powers, and duties of Vice Chief of Naval Operations. See section 5035 of this title.

Section 5086, acts Aug. 10, 1956, ch. 1041, 70A Stat. 283; Dec. 12, 1980, Pub. L. 96–513, title V, § 503(5), 94 Stat. 2911, related to detail and duties of Deputy Chiefs of Naval Operations. See section 5036 of this title.

Section 5087, acts Aug. 10, 1956, ch. 1041, 70A Stat. 283; Dec. 12, 1980, Pub. L. 96–513, title V, § 503(6), 94 Stat. 2911, related to detail and duties of Assistant Chiefs of Naval Operations. See section 5037 of this title.

### [§ 5088. Renumbered § 5020]

## [CHAPTER 511—REPEALED]

### [§§ 5111, 5112. Repealed. Pub. L. 89–718, § 34(a), Nov. 2, 1966, 80 Stat. 1119]

Section 5111, acts Aug. 10, 1956, ch. 1041, 70A Stat. 284; Sept. 7, 1962, Pub. L. 87–649, § 14(c)(14), 76 Stat. 501, created an Office of Naval Material, established position of Chief of Naval Material, and set out powers and duties of Chief of Naval Materials.

Section 5112, act Aug. 10, 1956, ch. 1041, 70A Stat. 284, provided for detailing of an officer as Vice Chief of Naval Material to serve in event of absence or disability of Chief of Naval Material.

DEPARTMENT OF DEFENSE REORGANIZATION ORDER

Eff. May 1, 1966, 31 F.R. 7188

REORGANIZATION OF THE DEPARTMENT OF THE NAVY

By virtue of the authority vested in me by section 125 of title 10 of the United States Code, and as Secretary of Defense, it is hereby ordered as follows:

SECTION 1. *Abolition of Office of Naval Material and Transfer of Functions.*—The Office of Naval Material and the offices of Chief of Naval Material and Vice Chief of Naval Material named in sections 5111 and 5112, title 10, United States Code, are hereby abolished and their functions, including those functions described in sections 5111 and 5082(a)(2), title 10, United States Code, are transferred to the Secretary of the Navy.

SEC. 2. *Abolition of Certain Bureaus and Transfer of Functions.*—The following bureaus, named in chapter 513 of title 10, United States Code, and the offices of the chiefs, deputy chiefs, and other officials of such bureaus are hereby abolished and all their functions are transferred to the Secretary of the Navy:

(a) Bureau of Naval Weapons;
(b) Bureau of Ships;
(c) Bureau of Supplies and Accounts; and
(d) Bureau of Yards and Docks.

SEC. 3. *Performance of Transferred Functions.*—Subject to the provisions of sections 5012 and 5013, title 10, United States Code, the Secretary of the Navy may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any office, agency, or employee, of the Department of the Navy of any function transferred to the Secretary by the provisions of this order, or assigning any such function to any other officer, or to any office, agency, or employee, of the Department of the Navy.

SEC. 4. *Transitional Provisions.*—In order to assist in the orderly transfer of functions and to promote continuity of operations, the Secretary of the Navy may, if he considers it necessary, delay beyond the effective date of this order the abolition of any office or the transfer of any function.

SEC. 5. *Effective Date.*—The provisions of this order shall take effect on the date determined under section 125, title 10, United States Code, or the first day of May 1966, whichever is later.

ROBERT S. MCNAMARA.

## CHAPTER 513—BUREAUS; OFFICE OF THE JUDGE ADVOCATE GENERAL

Sec.
5131. Bureaus: names; location.
5132. Bureaus: distribution of business; orders; records; expenses.
5133. Bureau Chiefs: rank; pay and allowances; retirement.
[5134. Repealed.]
5135. Bureau Chiefs: succession to duties.
[5136. Repealed.]
5137. Bureau of Medicine and Surgery: Chief; Deputy Chief.
5138. Bureau of Medicine and Surgery: Dental Division; Chief; functions.
5139. Appointment of chiropractors in the Medical Service Corps.
[5140. Repealed.]
5141. Bureau of Naval Personnel: Chief of Naval Personnel; Deputy Chief of Naval Personnel.
5142. Chaplain Corps and Chief of Chaplains.
5142a. Deputy Chief of Chaplains.
5143. Office of Navy Reserve: appointment of Chief.
5144. Office of Marine Forces Reserve: appointment of Commander.
[5145 to 5147. Repealed.]
5148. Judge Advocate General's Corps: Office of the Judge Advocate General; Judge Advocate General; appointment, term, emoluments, duties.
5149. Office of the Judge Advocate General: Deputy Judge Advocate General; Assistant Judge Advocates General.
5150. Staff Corps of the Navy.
[5151 to 5153. Renumbered.]
[5154. Repealed.]
[5155. Renumbered.]

AMENDMENTS

2006—Pub. L. 109–163, div. A, title V, § 515(b)(4)(A), Jan. 6, 2006, 119 Stat. 3235, substituted ''Navy'' for ''Naval'' in item 5143.

1996—Pub. L. 104–201, div. A, title XII, § 1212(b)(2), (c)(2), Sept. 23, 1996, 110 Stat. 2692, 2693, added items 5143 and 5144.

1994—Pub. L. 103–337, div. A, title V, § 504(b)(5), Oct. 5, 1994, 108 Stat. 2751, struck out ''and Judge Advocate General'' after ''Chiefs'' in item 5133.

1992—Pub. L. 102–484, div. A, title V, § 505(b)(2), Oct. 23, 1992, 106 Stat. 2404, added item 5139.

1986—Pub. L. 99–433, title V, § 514(a)(1), (3), Oct. 1, 1986, 100 Stat. 1054, struck out ''; OFFICE OF NAVAL RESEARCH'' after ''GENERAL'' in chapter heading, struck out items 5150 ''Office of Naval Research: Chief, appointment, term, emoluments; Assistant Chief; succession to duties'', 5151 ''Office of Naval Research: duties'', 5152 ''Office of Naval Research: appropriations; time limit'', and 5153 ''Naval Research Advisory Committee'', and redesignated item 5155 as item 5150.

1980—Pub. L. 96–513, title V, §§ 503(8), 513(6), Dec. 12, 1980, 94 Stat. 2911, 2931, struck out items 5134 ''Deputy Bureau Chiefs: pay'', 5139 ''Bureau of Medicine and Surgery: Medical Service Corps, Chief'', 5140 ''Bureau of Medicine and Surgery: Nurse Corps, Director'', and 5143 ''Bureau of Naval Personnel: Assistant Chief of Women'', and added item 5155.

Pub. L. 96–343, § 11(b), Sept. 8, 1980, 94 Stat. 1130, substituted ''Chaplain Corps and'' for ''Bureau of Naval Personnel:'' in item 5142 and added item 5142a.

1967—Pub. L. 90–179, § 2(3), Dec. 8, 1967, 81 Stat. 547, inserted reference to Judge Advocate General's Corps in

item 5148 and inserted reference to Deputy Judge Advocate General and substituted ''Advocates General'' for ''Advocate General; succession to duties'' after ''Assistant Judge'' in item 5149.

1966—Pub. L. 89–718, §§35(2), (5), 36, Nov. 2, 1966, 80 Stat. 1120, inserted ''and Judge Advocate General'' after ''Bureau Chiefs'' in item 5133, struck out items 5145, 5146, 5147, and 5154 which related to Bureau of Ships and the Chief, Deputy Chief, and Division Heads thereof, Bureau of Supplies and Accounts and the Chief and Deputy Chief thereof, Bureau of Yards and Docks and the Chief and Deputy Chief thereof, and Bureau of Naval Weapons and the Chief and Deputy Chief thereof, respectively, and struck out ''pay,'' in item 5149.

1959—Pub. L. 86–174, §§1(3), 2(4), Aug. 18, 1959, 73 Stat. 395, 396, added item 5154 and eliminated items 5136 and 5144.

## § 5131. Bureaus: names; location

There are in the executive part of the Department of the Navy the following bureaus:

(1) Bureau of Medicine and Surgery.

(2) Bureau of Naval Personnel.

(Aug. 10, 1956, ch. 1041, 70A Stat. 285; Pub. L. 86–174, §§1(1), 2(1), Aug. 18, 1959, 73 Stat. 395; Pub. L. 89–718, §35(1), Nov. 2, 1966, 80 Stat. 1120.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5131 ..... | 5 U.S.C. 429 (less applicability to distribution of business among bureaus). | R.S. 419 (less applicability to distribution of business among bureaus); July 19, 1892, ch. 206, 27 Stat. 243 (6th par.); June 30, 1914, ch. 130, 38 Stat. 408 (4th par.); July 12, 1921, ch. 44, §8 (1st 17 words of 1st par.), 42 Stat. 140; June 20, 1940, ch. 400, §1(a), (b), 54 Stat. 492; May 13, 1942, ch. 303, §1, 56 Stat. 276. |

The bureaus are listed alphabetically for convenience. This listing has no effect on the precedence of the bureaus.

AMENDMENTS

1966—Pub. L. 89–718 struck out cls. (3) to (6) which related to the Bureau of Naval Weapons, the Bureau of Ships, the Bureau of Supplies and Accounts, and the Bureau of Yards and Docks, respectively.

1959—Pub. L. 86–174 inserted reference to Bureau of Naval Weapons and struck out reference to Bureau of Aeronautics and Bureau of Ordnance.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 2 of Pub. L. 86–174 provided that the amendment of this section and section 5133 of this title and the repeal of sections 5136 and 5144 of this title shall be effective on July 1, 1960, or on any earlier date on which the Secretary of the Navy makes a formal finding that all the functions of the Bureau of Aeronautics and the Bureau of Ordnance have been transferred to the Bureau of Naval Weapons or elsewhere.

BUREAU OF NAVAL WEAPONS; TRANSFER OF FUNDS

Section 3 of Pub. L. 86–174 provided that: ''The unexpended balances of appropriations and funds available for use in connection with the exercise of any function transferred to the Bureau of Naval Weapons shall be transferred in the manner provided by section 407 of the National Security Act of 1947, as amended (5 U.S.C. 172f) [10 U.S.C. 126], for use in connection with the transferred functions.''

## § 5132. Bureaus: distribution of business; orders; records; expenses

(a) Except as otherwise provided by law, the business of the executive part of the Department of the Navy shall be distributed among the bureaus as the Secretary of the Navy considers expedient and proper.

(b) Each bureau shall perform its duties under the authority of the Secretary, and its orders are considered as coming from the Secretary.

(c) Under the Secretary, each bureau has custody and charge of its records and accounts.

(d) Each bureau shall furnish to the Secretary estimates for its specific, general, and contingent expenses.

(Aug. 10, 1956, ch. 1041, 70A Stat. 285.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5132(a) ..... | 5 U.S.C. 429 (as applicable to distribution of business among bureaus). | R.S. 419 (as applicable to distribution of business among bureaus). |
| | 5 U.S.C. 455 (1st 23 words). | July 12, 1921, ch. 44, §8 (1st par., 1st 37 words), 42 Stat. 140. |
| 5132(b) ..... | 5 U.S.C. 430 (last 39 words). | R.S. 420 (last 39 words). |
| | 5 U.S.C. 430b. | June 20, 1940, ch. 400, §1(b) (2d sentence), 54 Stat. 493. |
| | 5 U.S.C. 455 (less 1st 23 words). | July 12, 1921, ch. 44, §8 (1st par., less 1st 37 words), 42 Stat. 140. |
| 5132(c) ..... | 5 U.S.C. 430 (less last 39 words). | R.S. 420 (less last 39 words). |
| 5132(d) ..... | 5 U.S.C. 431. | R.S. 430. |

In subsection (a) the phrase ''Except as otherwise provided by law'' is added to preserve provisions directing that the Chief of Naval Operations and other statutory offices and boards share in the business of the executive part of the Department of the Navy. The words ''The Bureau of Aeronautics shall be charged with matters pertaining to naval aeronautics'' in 5 U.S.C. 455 are omitted as implied in the name of the bureau and covered by the authority granted to the Secretary to distribute the business of the Department.

In subsection (b) the words ''and shall have full force and effect as such'' are omitted as surplusage.

In subsection (c) the words ''Under the Secretary'' are inserted to make the provisions of 5 U.S.C. 413 and 5 U.S.C. 430, the latter of which is here codified, harmonious and to give meaning to each provision.

TRANSFER OF FUNCTIONS

Transfer of functions of bureaus and reorganization, see note set out under section 5111 of this title.

## § 5133. Bureau Chiefs: rank; pay and allowances; retirement

(a) Unless appointed to a higher grade under another provision of law, an officer of the Navy, while serving as a chief of bureau, has the rank of rear admiral.

(b) Except for an officer who is serving or has served in the grade of vice admiral under section 5137(a) of this title, an officer who is retired while serving as a chief of bureau, or who, after serving at least two and one-half years as chief of bureau, is retired after completion of that service while serving in a lower rank or grade, may, in the discretion of the President, be retired with the grade of rear admiral, and with retired pay based on that grade. An officer who is serving or has served in the grade of vice ad-

miral under section 5137(a) of this title may, upon retirement, be appointed by the President, by and with the advice and consent of the Senate, to the highest grade held by him while on the active list or active-duty list and with retired pay based on that grade.

(c) Except in time of war, any officer of a staff corps who has served as a chief of bureau for a full term is exempt from sea duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 285; Pub. L. 86–174, § 2(2), Aug. 18, 1959, 73 Stat. 396; Pub. L. 87–649, § 14c(15), Sept. 7, 1962, 76 Stat. 501; Pub. L. 89–288, § 3, Oct. 22, 1965, 79 Stat. 1050; Pub. L. 89–718, § 35(2)–(4), Nov. 2, 1966, 80 Stat. 1120; Pub. L. 96–513, title V, § 503(9), Dec. 12, 1980, 94 Stat. 2911; Pub. L. 103–337, div. A, title V, § 504(b)(3), (5), Oct. 5, 1994, 108 Stat. 2751.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5133(a) ..... | 5 U.S.C. 441 (less applicability to JAG). | July 1, 1918, ch. 114, 40 Stat. 717 (1st sentence on p. 717, less applicability to JAG). |
| | 5 U.S.C. 441a (as applicable to rank, pay and allowances). | June 20, 1940, ch. 400, § 1(c) (2d sentence, less applicability to retirement), 54 Stat. 493. |
| | 5 U.S.C. 439 (last 39 words). | July 12, 1921, ch. 44, § 8 (2d par., last 42 words), 42 Stat. 140. |
| 5133(b) ..... | 5 U.S.C. 425a (as applicable to Chiefs of Bureaus). | June 22, 1938, ch. 567, 52 Stat. 839 (as applicable to Chiefs of Bureaus). |
| | 5 U.S.C. 441a (as applicable to retirement). | June 20, 1940, ch. 400, § 1(c) (2d sentence as applicable to retirement), 54 Stat. 493. |
| 5133(c) ..... | 34 U.S.C. 225. | R.S. 1436. |

In subsection (a), the language that incorporates the rank, pay, and allowances of chiefs of bureaus of the War Department for chiefs of bureaus is executed. Creation of the Department of the Air Force by the National Security Act of 1947, and the saving provisions in § 305 of that act, would relate chiefs of bureaus of the Navy to the corresponding officers of both the other military departments. Since there is now positive organizational law for both of those departments providing the grades of the departmental officers, and, since in the reorganization of the departments, there is no precise counterpart of the chief of a Navy bureau, it is inappropriate to continue the incorporation by reference. Subsection (a), therefore, provides that bureau chiefs are entitled to have the rank of rear admiral with pay and allowances of a rear admiral in the upper half, which, under § 516 of the Officer Personnel Act of 1947, corresponds with major general. The subsection also recognizes the possibility of appointing an officer of the Marine Corps as Chief of the Bureau of Aeronautics by providing that such an appointee has the rank, pay, and allowances of a major general.

AMENDMENTS

1994—Pub. L. 103–337, § 504(b)(5), struck out ''and Judge Advocate General'' after ''Chiefs'' in section catchline.

Subsec. (a). Pub. L. 103–337, § 504(b)(3)(A), struck out ''or the Judge Advocate General'' after ''chief of bureau'' and struck out at end ''Unless appointed to a higher grade under another provision of law, an officer of the Marine Corps, while serving as Judge Advocate General, has the rank of major general.''

Subsec. (b). Pub. L. 103–337, § 504(b)(3)(B), struck out ''or the Judge Advocate General'' after ''chief of bureau'' in two places and ''or major general, as appropriate'' after ''grade of rear admiral''.

1980—Subsec. (b). Pub. L. 96–513 struck out second sentence relating to retired pay of an officer retired in the grade of rear admiral, and inserted ''or active-duty list'' after ''active list'' in third sentence.

1966—Pub. L. 89–718 inserted reference to the Judge Advocate General in section catchline, substituted ''Judge Advocate General'' for ''Chief of the Bureau of Naval Weapons'', inserted ''or the Judge Advocate General'' after ''chief of bureau'' in subsec. (a), and ''or the Judge Advocate General'' after ''chief of bureau'' in subsec. (b).

1965—Subsec. (b). Pub. L. 89–288 permitted an officer who is serving or has served in the grade of vice admiral under section 5137(a) of this title, upon retirement, to be appointed by the President, by and with the advice and consent of the Senate, to the highest grade held by him while on the active list and with the retired pay based on that grade.

1962—Subsec. (a). Pub. L. 87–649 repealed provisions which prescribed the pay and allowances of a chief of bureau and of the Chief of the Bureau of Naval Weapons, in the Marine Corps. See section 202 of Title 37, Pay and Allowances of the Uniformed Services.

1959—Pub. L. 86–174 substituted ''Bureau of Naval Weapons'' for ''Bureau of Aeronautics''.

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.

EFFECTIVE DATE OF 1962 AMENDMENTS

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1959 AMENDMENT

For effective date of amendment by Pub. L. 86–174 see note set out under section 5131 of this title.

TRANSFER OF FUNCTIONS

Transfer of functions of Offices of Bureau Chiefs, see note set out under section 5111 of this title.

## [§ 5134. Repealed. Pub. L. 87–649, § 14c(16), Sept. 7, 1962, 76 Stat. 501]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 286, prescribed pay of deputy chiefs of bureaus. See Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## § 5135. Bureau Chiefs: succession to duties

(a) When there is a vacancy in the office of chief of a bureau, or during the absence or disability of the chief of a bureau, the deputy chief of that bureau, unless otherwise directed by the President, shall perform the duties of the chief until a successor is appointed or the absence or disability ceases.

(b) When subsection (a) cannot be complied with because of the absence or disability of the deputy chief of the bureau, the heads of the major divisions of the bureau, in the order directed by the Secretary of the Navy, shall perform the duties of the chief, unless otherwise directed by the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 286.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5135(a) ..... | 5 U.S.C. 445 (less 1st 43 words). | Aug. 29, 1916, ch. 417, 39 Stat. 558 (3d par., 45th through 95th words). |

HISTORICAL AND REVISION NOTES—CONTINUED

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| | 5 U.S.C. 446 (last 49 words). | Mar. 3, 1893, ch. 212, 27 Stat. 717 (1st par., last 53 words); May 13, 1942, ch. 303, §1, 56 Stat. 276. |
| | 5 U.S.C. 447 (25th through 74th words). | May 4, 1898, ch. 234, §1, 30 Stat. 373 (12th par., 41st through 92d words). |
| | 5 U.S.C. 448a. | June 20, 1940, ch. 400, §1(f), 54 Stat. 493. |
| | 5 U.S.C. 449 (last 51 words). | July 26, 1894, ch. 165, §1, 28 Stat. 132 (3d par., last 56 words); July 11, 1919, ch. 9, 41 Stat. 147 (1st proviso). |
| | 5 U.S.C. 452 (less 1st 35 words). | July 12, 1921, ch. 44, §8 (3d par., less 1st 35 words), 42 Stat. 140. |
| 5135(b) ..... | 5 U.S.C. 432a (less applicability to JAG). | Feb. 3, 1942, ch. 35, §1 (less applicability to JAG), 56 Stat. 47. |

In subsection (a) all the provisions covering succession in case of the absence of the chiefs of the various bureaus are integrated and uniformly stated.

That part of 5 U.S.C. 448a, enacted in the Act of June 20, 1940, ch. 400, §1(f), 54 Stat. 493, relating to the succession by heads of major divisions of the Bureau of Ships is superseded by the Act of Feb. 3, 1942, ch. 35, §1 (5 U.S.C. 432a).

TRANSFER OF FUNCTIONS

Transfer of functions of Offices of Bureau Chiefs, see note set out under section 5111 of this title.

## [§ 5136. Repealed. Pub. L. 86–174, § 2(3), Aug. 18, 1959, 73 Stat. 396]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 286, related to appointment, qualifications and term of Chief of Bureau of Aeronautics, and authorized detail of an officer as Deputy Chief of Bureau.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1960, or any earlier date on which the Secretary of the Navy makes formal finding that all the functions of the Bureau of Aeronautics and the Bureau of Ordnance have been transferred to the Bureau of Naval Weapons or elsewhere, see note set out under section 5131 of this title.

## § 5137. Bureau of Medicine and Surgery: Chief; Deputy Chief

(a) The Chief of the Bureau of Medicine and Surgery shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years, from officers on the active-duty list of the Navy in any corps of the Navy Medical Department. He has the title of Surgeon General. The Surgeon General, while so serving has the grade of vice admiral.

(b) An officer on the active-duty list of the Navy who is qualified to be the Chief of the Bureau of Medicine and Surgery may be detailed as Deputy Chief of the Bureau of Medicine and Surgery.

(Aug. 10, 1956, ch. 1041, 70A Stat. 286; Pub. L. 89–288, §4, Oct. 22, 1965, 79 Stat. 1050; Pub. L. 96–513, title V, §503(10), Dec. 12, 1980, 94 Stat. 2912; Pub. L. 104–106, div. A, title V, §506(b), Feb. 10, 1996, 110 Stat. 296.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 5137(a) ..... | 5 U.S.C. 432. | R.S. 421. |

HISTORICAL AND REVISION NOTES—CONTINUED

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| | 5 U.S.C. 438. | R.S. 426. |
| | 5 U.S.C. 440 (less applicability to Paymaster General). | R.S. 1471 (less applicability to Paymaster General); June 20, 1940, ch. 400, §1(a), 54 Stat. 492. |
| 5137(b) ..... | 5 U.S.C. 451 (less last 10 words). | R.S. 1375 (less last 10 words); Feb. 27, 1877, ch. 69, §1, 19 Stat. 244. |

In subsection (a) the words ''from officers on the active list of the Navy in the Medical Corps'' are substituted for the words ''from the list of Surgeons of the Navy'' to conform to present statutory terminology, and the words ''or from officers having the rank of captain in the staff corps of the Navy'' are omitted as obsolete in view of the subsequent changes in staff corps grades and the establishment of grades and ranks higher than captain in the staff corps. R.S. 421 and 426 were derived from the Act of July 5, 1862, ch. 134, 12 Stat. 510, and the Act of Mar. 3, 1871, ch. 117, §10, 16 Stat. 537. The Act of July 5, 1862, provided that the Chief of the Bureau of Medicine and Surgery should be appointed from the list of surgeons in the Navy. At that time the senior medical officers were ''surgeons'' who ''ranked with'' commanders. Next junior to them were ''surgeons'' who ''ranked with'' lieutenants. The rank of lieutenant commander did not exist. The Act of Mar. 3, 1871, established five grades in the Medical Corps of which two, medical director and medical inspector, were higher than the grade of surgeon. Medical directors were given the relative rank of captain, medical inspectors the relative rank of commander, and surgeons the relative rank of lieutenant commander or lieutenant. The 1871 Act further provided that chiefs of bureaus might be appointed from officers having the relative rank of captain in the staff corps. This provision was probably intended to insure that the assignment of new grades and titles to senior staff corps officers should not be construed as a bar to their appointment as bureau chiefs. However, it was interpreted by the Commissioners who drafted the Revised Statutes as setting up a new category of officers from which bureau chiefs could be appointed, and it was therefore stated, in R.S. 421, as an alternative to each of the other categories specified for the various Bureaus in the 1862 Act and reenacted in R.S. 422–426. Thus the Chief of the Bureau of Medicine and Surgery could be appointed from surgeons, who had the relative rank of lieutenant commander or lieutenant in the Medical Corps, or from officers having the relative rank of captain in the Medical Corps, Pay Corps, or Engineer Corps. Section 405 of the Officer Personnel Act of 1947 (34 U.S.C. 10a) abolished the grade of surgeon and other staff corps grades and replaced them with grades having the same titles as the grades and ranks in the line. Officers who were ''surgeons'' are now ''lieutenant commanders and lieutenants in the Medical Corps.'' If this literal translation is made in R.S. 426 and the eligibility of all staff corps captains, as stated in R.S. 421, is retained, an absurd result is reached; i.e., lieutenants, lieutenant commanders, and captains in the Medical Corps are eligible for appointment as Chief of the Bureau of Medicine and Surgery; but commanders and rear admirals in that corps are ineligible; captains, but not rear admirals, in other staff corps are eligible by virtue of their rank alone, regardless of their lack of training in medicine. It appears, therefore, that the only reasonable meaning that can be given to R.S. 421 and 426 at the present time is that the Chief of the Bureau of Medicine and Surgery must be an officer of the Medical Corps.

In subsection (b) the words ''Deputy Chief of the Bureau'' are substituted for the words ''assistant to the Bureau'' for uniformity. The words ''An officer on the active list of the Navy in the Medical Corps'' are substituted for the words ''A surgeon, assistant surgeon, or passed assistant surgeon'' to conform to present statutory terminology and to describe clearly the class of of-

ficers eligible for detail under this subsection. When the source statute was enacted there was no class of officers exactly corresponding to officers of the present Naval Reserve, and retired officers could be called to active duty only in time of war, so that the detailing of an officer not on the active list as assistant to the bureau chief was probably not contemplated. Further, since the assistant or deputy must at times perform the duties of the chief, it is reasonable to assume that he was intended to be in the same category of officers. Later statutes relating to the Assistant Chiefs of the Bureau of Aeronautics and the Bureau of Ships, enacted at a time when there were Reserve officers and when retired officers could be called to duty at any time with their consent, specify that the assistant chiefs shall be officers on the active list.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–106, § 506(b)(1), substituted ''in any corps of the Navy Medical Department'' for ''in the Medical Corps''.

Subsec. (b). Pub. L. 104–106, § 506(b)(2), substituted ''who is qualified to be the Chief of the Bureau of Medicine and Surgery'' for ''in the Medical Corps''.

1980—Pub. L. 96–513 substituted ''active-duty list'' for ''active list'' wherever appearing.

1965—Subsec. (a). Pub. L. 89–288 provided the Surgeon General, while so serving, with the grade of vice admiral.

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.

## § 5138. Bureau of Medicine and Surgery: Dental Division; Chief; functions

(a) There is a Dental Division in the Bureau of Medicine and Surgery. An officer of the Dental Corps not below the grade of rear admiral (lower half) shall be detailed as Chief of the Dental Division.

(b) The Chief of the Dental Division is entitled to the same privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.

(c) The dental functions of the Bureau of Medicine and Surgery shall be so defined and prescribed by Bureau directives, and if necessary by regulations of the Secretary of the Navy, that all such functions will be under the direction of the Dental Division. All matters relating to dentistry shall be referred to that Division.

(d) The Dental Division shall—

(1) establish professional standards and policies for dental practice;

(2) conduct inspections and surveys for maintenance of such standards;

(3) initiate and recommend action pertaining to complements, appointments, advancement, training assignment, and transfer of dental personnel; and

(4) serve as the advisory agency for the Bureau on all matters relating directly to dentistry.

(Aug. 10, 1956, ch. 1041, 70A Stat. 286; Pub. L. 87–649, § 14c(17), Sept. 7, 1962, 76 Stat. 501; Pub. L. 96–513, title III, § 342, Dec. 12, 1980, 94 Stat. 2901; Pub. L. 97–86, title IV, § 405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99–145, title V, § 514(b)(1), Nov. 8, 1985, 99 Stat. 628.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5138 ..... | 5 U.S.C. 456b. | Dec. 28, 1945, ch. 604, § 2, 59 Stat. 666. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| | 5 U.S.C. 456c. | Dec. 28, 1945, ch. 604, § 3, 59 Stat. 666; Aug. 7, 1947, ch. 512, § 427, 61 Stat. 880; Oct. 18, 1951, ch. 513, 65 Stat. 450. |

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore''.

1981—Subsec. (a). Pub. L. 97–86 substituted ''commodore'' for ''commodore admiral''.

1980—Subsec. (a). Pub. L. 96–513 substituted ''not below the grade of commodore admiral'' for ''in the grade of rear admiral''.

1962—Subsec. (b). Pub. L. 87–649 struck out ''pay, allowances, and'' after ''entitled to the same''. See Title 37, Pay and Allowances of the Uniformed Services.

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.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## § 5139. Appointment of chiropractors in the Medical Service Corps

Chiropractors who are qualified under regulations prescribed by the Secretary of the Navy may be appointed as commissioned officers in the Medical Service Corps of the Navy.

(Added Pub. L. 102–484, div. A, title V, § 505(b)(1), Oct. 23, 1992, 106 Stat. 2404.)

PRIOR PROVISIONS

A prior section 5139, acts Aug. 10, 1956, ch. 1041, 70A Stat. 287; Sept. 7, 1962, Pub. L. 87–649, § 6(c)(1), 76 Stat. 494, established position of Chief of Medical Service Corps within Bureau of Medicine and Surgery, prior to repeal by Pub. L. 96–513, title III, § 352(a), title VII, § 701, Dec. 12, 1980, 94 Stat. 2902, 2955, eff. Sept. 15, 1981.

REGULATIONS

Regulations required to be prescribed by amendment made by section 505 of Pub. L. 102–484 to be prescribed not later than 180 days after Oct. 23, 1992, see section 505(d) of Pub. L. 102–484, set out as a note under section 3070 of this title.

## [§ 5140. Repealed. Pub. L. 96–513, title III, § 352(a), Dec. 12, 1980, 94 Stat. 2902]

Section, acts Aug. 10 1956, ch. 1041, 70A Stat. 287; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(23), 71 Stat. 385; Sept. 7, 1962, Pub. L. 87–649, § 6(c)(2), 76 Stat. 494; Sept. 30, 1966, Pub. L. 89–609, § 1(6), 80 Stat. 853; Nov. 8, 1967, Pub. L. 90–130, § 1(14)(A), 81 Stat. 376, established position of Director of Nurse Corps within Bureau of Medicine and Surgery.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## § 5141. Bureau of Naval Personnel: Chief of Naval Personnel; Deputy Chief of Naval Personnel

(a) The Chief of the Bureau of Naval Personnel shall be known as the Chief of Naval Personnel. The Chief of Naval Personnel shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years, from officers on the active-duty list in the line of the Navy not below the grade of commander.

(b) The Deputy Chief of the Bureau of Naval Personnel shall be known as the Deputy Chief of Naval Personnel. An officer on the active-duty list in the line of the Navy not below the grade of commander may be detailed as Deputy Chief of Naval Personnel.

(Aug. 10, 1956, ch. 1041, 70A Stat. 287; Pub. L. 96–513, title V, § 503(11), Dec. 12, 1980, 94 Stat. 2912.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5141(a) ..... | 5 U.S.C. 432.<br>5 U.S.C. 434 (less applicability to Chief of BuOrd). | R.S. 421.<br>R.S. 422 (less applicability to Chief of BuOrd, Bureau of Equipment and Recruiting, and BuDocks); May 13, 1942, ch. 303, § 1, 56 Stat. 276. |
| 5141(b) ..... | 5 U.S.C. 446 (less last 49 words). | Mar. 3, 1893, ch. 212 (1st par., less last 53 words), 27 Stat. 717; May 13, 1942, ch. 303, § 1, 56 Stat. 276. |

In subsection (a) the words ''from officers on the active list in the line of the Navy'' are substituted for the words ''from the list of officers of the Navy'' to conform to current terminology. Line officers alone had the ''grade'' of commander when the source statute was enacted. The words ''or from officers having the rank of captain in the staff corps of the Navy'' are omitted as obsolete in view of subsequent changes in the staff corps and in the staff corps ranks and grades. These words were derived from the Act of Mar. 3, 1871, ch. 117, § 10, 16 Stat. 537, which established new staff corps grades and assigned to officers in the highest grade the relative rank of captain. They were probably intended merely to assure the eligibility of senior staff corps officers for appointment as chiefs of appropriate staff bureaus. However, as incorporated in R.S. 421, they provide a category of eligible officers which is an alternative to each of the categories listed in R.S. 422–426. Thus R.S. 421 and R.S. 422, as originally enacted, provided that the chiefs of the four ''line'' bureaus, Yards and Docks, Navigation, Ordnance, and Equipment and Recruiting, could be appointed from line officers not below the grade of commander or from officers having the relative rank of captain in any staff corps. Pursuant to these sections the Attorney General held in 1898 that an officer having the relative rank of captain in the Civil Engineer Corps could legally be appointed as Chief of the Bureau of Yards and Docks (22 Op. Atty. Gen. 47, 17 Mar. 1898). There is some confusion in the opinion as to which corps was meant. The proposed appointee was a member of the Civil Engineer Corps, but the Corps of Engineers is the corps mentioned in the conclusion of the opinion. A provision in the Act of June 29, 1906, ch. 3590, 34 Stat. 564, requires that the Chief of the Bureau of Yards and Docks be selected from officers of the Civil Engineer Corps, so that there is no longer any question as to that bureau. The Bureau of Equipment and Recruiting has been abolished, leaving only the Bureau of Naval Personnel (formerly Navigation) and the Bureau of Ordnance of the four ''line'' bureaus originally listed in R.S. 422. The statutes establishing new ''line'' bureaus, the Bureau of Ships and the Bureau of Aeronautics, contain their own requirements as to the qualifications of the chiefs. The abolition of the Corps of Engineers and the Construction Corps, with the transfer of officers in those corps to the line, has eliminated the only staff corps whose members had duties closely related to those of line officers. The present staff corps, with the possible exception of the Supply Corps, are all highly specialized. Furthermore, in five of the seven corps, captain is no longer the highest grade. In view of these facts it is considered that the provision of R.S. 421 making staff corps captains eligible for appointment as Chief of the Bureaus of Naval Personnel and Ordnance is obsolete.

In subsection (b) the words ''An officer on the active list in the line of the Navy not below the grade of commander'' are substituted for the words ''An officer of the Navy not below the rank of commander'' to conform to current terminology and for clarity. When the source statute was enacted only line officers had the actual rank of commander. The words ''on the active list'' are inserted for the reasons stated in the revision note on § 5137(b) of this title. The words ''Deputy Chief'' are substituted for the words ''assistant to the Chief'' for the reason stated in the revision note on § 5134 of this title.

AMENDMENTS

1980—Pub. L. 96–513 substituted ''active-duty list'' for ''active list'' wherever appearing.

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.

## § 5142. Chaplain Corps and Chief of Chaplains

(a) The Chaplain Corps is a staff corps of the Navy and shall be organized in accordance with regulations prescribed by the Secretary of the Navy.

(b) There is in the executive part of the Department of the Navy the office of the Chief of Chaplains of the Navy. The Chief of Chaplains shall be appointed by the President, by and with the advice and consent of the Senate, from officers of the Chaplain Corps in the grade of commander or above who are serving on active duty and who have served on active duty in the Chaplain Corps for at least eight years.

(c) An officer appointed as the Chief of Chaplains shall be appointed for a term of four years. However, the President may terminate or extend the appointment at any time.

(d)(1) The Chief of Chaplains shall perform such duties as may be prescribed by the Secretary of the Navy and by law.

(2) The Chief of Chaplains shall, with respect to all duties pertaining to the procurement, distribution, and support of personnel of the Chaplain Corps, report to and be supported by the Chief of Naval Personnel.

(e) The Chief of Chaplains of the Navy is entitled to the same rank and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.

(Added Pub. L. 96–343, § 11(a), Sept. 8, 1980, 94 Stat. 1130; amended Pub. L. 105–85, div. A, title V, § 504(c)(1), Nov. 18, 1997, 111 Stat. 1725.)

PRIOR PROVISIONS

A prior section 5142, acts Aug. 10, 1956, ch. 1041, 70A Stat. 288; Sept. 7, 1962, Pub. L. 87–649, § 14c(18), 76 Stat. 501, provided for a Chief of Chaplains in Bureau of Naval Personnel, detailed by Chief of Naval Personnel from officers on active list of the Navy in Chaplains

President, by and with the advice and consent of the Senate, shall appoint the Chief of Naval Reserve from officers who—

''(1) have had at least 10 years of commissioned service;

''(2) are in a grade above captain; and

''(3) have been recommended by the Secretary of the Navy.''

Subsec. (c). Pub. L. 106–398, § 1 [[div. A], title V, § 507(b)], amended heading and text of subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

''(c) GRADE.—(1) The Chief of Naval Reserve holds office for a term determined by the Chief of Naval Operations, normally four years, but may be removed for cause at any time. He is eligible to succeed himself.

''(2) The Chief of Naval Reserve, while so serving, has the grade of rear admiral, without vacating the officer's permanent grade. However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of vice admiral.''

Subsec. (c)(2). Pub. L. 106–398, § 1 [[div. A], title X, § 1087(a)(18)], substituted ''has the grade of'' for ''has a grade''.

1999—Subsec. (c)(2). Pub. L. 106–65 substituted ''rear admiral'' for ''above rear admiral (lower half)'' and inserted at end ''However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of vice admiral.''

EFFECTIVE DATE OF 1999 AMENDMENT; APPLICABILITY TO INCUMBENTS

Amendment by Pub. L. 106–65 effective 60 days after Oct. 5, 1999, with special provision for an officer who is a covered position incumbent who is appointed under that amendment to the grade of lieutenant general or vice admiral, see section 554(g), (h) of Pub. L. 106–65, set out as a note under section 3038 of this title.

## § 5144. Office of Marine Forces Reserve: appointment of Commander

(a) ESTABLISHMENT OF OFFICE; COMMANDER, MARINE FORCES RESERVE.—There is in the executive part of the Department of the Navy an Office of the Marine Forces Reserve, which is headed by the Commander, Marine Forces Reserve. The Commander, Marine Forces Reserve, is the principal adviser to the Commandant on Marine Forces Reserve matters.

(b) APPOINTMENT.—(1) The President, by and with the advice and consent of the Senate, shall appoint the Commander, Marine Forces Reserve, from general officers of the Marine Corps (as defined in section 5001(2)) who have had at least 10 years of commissioned service.

(2) The Secretary of Defense may not recommend an officer to the President for appointment as Commander, Marine Forces Reserve, unless the officer—

(A) is recommended by the Secretary of the Navy; and

(B) is determined by the Chairman of the Joint Chiefs of Staff, in accordance with criteria and as a result of a process established by the Chairman, to have significant joint duty experience.

(3) An officer on active duty for service as the Commander, Marine Forces Reserve, shall be counted for purposes of the grade limitations under sections 525 and 526 of this title.

(4) Until December 31, 2006, the Secretary of Defense may waive subparagraph (B) of paragraph (2) with respect to the appointment of an officer as Commander, Marine Forces Reserve, if the Secretary of the Navy requests the waiver and, in the judgment of the Secretary of Defense—

(A) the officer is qualified for service in the position; and

(B) the waiver is necessary for the good of the service.

Any such waiver shall be made on a case-by-case basis.

(c) TERM; REAPPOINTMENT; GRADE.—(1) The Commander, Marine Forces Reserve, is appointed for a term determined by the Commandant of the Marine Corps, normally four years, but may be removed for cause at any time. An officer serving as Commander, Marine Forces Reserve, may be reappointed for one additional term of up to four years.

(2) The Commander, Marine Forces Reserve, while so serving, holds the grade of lieutenant general.

(d) ANNUAL REPORT.—(1) The Commander, Marine Forces Reserve, shall submit to the Secretary of Defense, through the Secretary of the Navy, an annual report on the state of the Marine Corps Reserve and the ability of the Marine Corps Reserve to meet its missions. The report shall be prepared in conjunction with the Commandant of the Marine Corps and may be submitted in classified and unclassified versions.

(2) The Secretary of Defense shall transmit the annual report of the Commander, Marine Forces Reserve, under paragraph (1) to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113 of this title is submitted to Congress.

(Added Pub. L. 104–201, div. A, title XII, § 1212(c)(1), Sept. 23, 1996, 110 Stat. 2692; amended Pub. L. 106–65, div. A, title V, § 554(d), Oct. 5, 1999, 113 Stat. 617; Pub. L. 106–398, § 1 [[div. A], title V, § 507(c), title X, § 1087(a)(19)], Oct. 30, 2000, 114 Stat. 1654, 1654A–103, 1654A–291; Pub. L. 107–314, div. A, title V, § 501(a), Dec. 2, 2002, 116 Stat. 2529; Pub. L. 108–375, div. A, title V, § 536(a), Oct. 28, 2004, 118 Stat. 1901.)

PRIOR PROVISIONS

A prior section 5144, act Aug. 10, 1956, ch. 1041, 70A Stat. 289, related to appointment and term of Chief of Bureau of Ordnance, and authorized detail of an officer as Deputy Chief of Bureau, prior to repeal by Pub. L. 86–174, § 2(3), Aug. 18, 1959, 73 Stat. 396, effective July 1, 1960, or any earlier date on which the Secretary of the Navy made a formal finding that all the functions of the Bureau of Aeronautics and the Bureau of Ordnance had been transferred to the Bureau of Naval Weapons or elsewhere.

AMENDMENTS

2004—Subsec. (b)(4). Pub. L. 108–375 substituted ''December 31, 2006'' for ''December 31, 2004''.

2002—Subsec. (b)(4). Pub. L. 107–314 substituted ''December 31, 2004'' for ''October 1, 2003''.

2000—Subsec. (b). Pub. L. 106–398, § 1 [[div. A], title V, § 507(c)], amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''The President, by and with the advice and consent of the Senate, shall appoint the Commander, Marine Forces Reserve, from officers of the Marine Corps who—

''(1) have had at least 10 years of commissioned service;

''(2) are in a grade above colonel; and

''(3) have been recommended by the Secretary of the Navy.''

Subsec. (c). Pub. L. 106–398, §1 [[div. A], title V, §507(c)], amended heading and text of subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

''(c) TERM OF OFFICE; GRADE.—(1) The Commander, Marine Forces Reserve, holds office for a term determined by the Commandant of the Marine Corps, normally four years, but may be removed for cause at any time. He is eligible to succeed himself.

''(2) The Commander, Marine Forces Reserve, while so serving, has the grade of major general, without vacating the officer's permanent grade. However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of lieutenant general.''

Subsec. (c)(2). Pub. L. 106–398, §1 [[div. A], title X, §1087(a)(19)], substituted ''has the grade of'' for ''has a grade''.

1999—Subsec. (c)(2). Pub. L. 106–65 substituted ''major general'' for ''above brigadier general'' and inserted at end ''However, if selected in accordance with section 12505 of this title, he may be appointed in the grade of lieutenant general.''

EFFECTIVE DATE OF 1999 AMENDMENT; APPLICABILITY TO INCUMBENTS

Amendment by Pub. L. 106–65 effective 60 days after Oct. 5, 1999, with special provision for an officer who is a covered position incumbent who is appointed under that amendment to the grade of lieutenant general or vice admiral, see section 554(g), (h) of Pub. L. 106–65, set out as a note under section 3038 of this title.

### [§§ 5145 to 5147. Repealed. Pub. L. 89–718, § 35(5), Nov. 2, 1966, 80 Stat. 1120]

Section 5145, acts Aug. 10, 1956, ch. 1041, 70A Stat. 289; May 13, 1960, Pub. L. 86–454, 74 Stat. 103; Sept. 7, 1962, Pub. L. 87–649, §14(c)(19), 76 Stat. 501, provided for appointment of Chief of Bureau of Ships, detailing and rank of Deputy Chief, and detailing of heads of major divisions of Bureau of Ships.

Section 5146, act Aug. 10, 1956, ch. 1041, 70A Stat. 289, provided for appointment of Chief of Bureau of Supplies and Accounts and detailing of Deputy Chief.

Section 5147, act Aug. 10, 1956, ch. 1041, 70A Stat. 289, provided for appointment of Chief of Bureau of Yards and Docks and detailing of Deputy Chief.

### § 5148. Judge Advocate General's Corps: Office of the Judge Advocate General; Judge Advocate General; appointment, term, emoluments, duties

(a) The Judge Advocate General's Corps is a Staff Corps of the Navy, and shall be organized in accordance with regulations prescribed by the Secretary of the Navy.

(b) There is in the executive part of the Department of the Navy the Office of the Judge Advocate General of the Navy. The Judge Advocate General shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years. He shall be appointed from judge advocates of the Navy or the Marine Corps who are members of the bar of a Federal court or the highest court of a State and who have had at least eight years of experience in legal duties as commissioned officers. The Judge Advocate General, while so serving, shall hold a grade not lower than rear admiral or major general, as appropriate.

(c) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.

(d) The Judge Advocate General of the Navy, under the direction of the Secretary of the Navy, shall—

(1) perform duties relating to legal matters arising in the Department of the Navy as may be assigned to him;

(2) perform the functions and duties and exercise the powers prescribed for the Judge Advocate General in chapter 47 of this title;

(3) receive, revise, and have recorded the proceedings of boards for the examination of officers of the naval service for promotion and retirement; and

(4) perform such other duties as may be assigned to him.

(e) No officer or employee of the Department of Defense may interfere with—

(1) the ability of the Judge Advocate General to give independent legal advice to the Secretary of the Navy or the Chief of Naval Operations; or

(2) the ability of judge advocates of the Navy assigned or attached to, or performing duty with, military units to give independent legal advice to commanders.

(Aug. 10, 1956, ch. 1041, 70A Stat. 289; Pub. L. 87–649, §14c(20), Sept. 7, 1962, 76 Stat. 501; Pub. L. 90–179, §2(1), Dec. 8, 1967, 81 Stat. 546; Pub. L. 96–513, title III, §343, Dec. 12, 1980, 94 Stat. 2901; Pub. L. 103–337, div. A, title V, §504(b)(1), Oct. 5, 1994, 108 Stat. 2750; Pub. L. 108–375, div. A, title V, §574(b)(1), Oct. 28, 2004, 118 Stat. 1922; Pub. L. 109–163, div. A, title V, §508(b), title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3229, 3440.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5148 ..... | 5 U.S.C. 428. | June 8, 1880, ch. 129, 21 Stat. 164; June 5, 1896, ch. 331, 29 Stat. 251. |
| | 50 U.S.C. 741 (as applicable to Navy JAG). | May 5, 1950, ch. 169, §13 (as applicable to Navy JAG), 64 Stat. 147. |
| | 5 U.S.C. 441 (as applicable to JAG). | July 1, 1918, ch. 114, 40 Stat. 717 (1st sentence on p. 717, as applicable to JAG). |
| | 5 U.S.C. 425a (as applicable to JAG). | June 22, 1938, ch. 567 (as applicable to JAG), 52 Stat. 839. |

In subsection (b) the rank, pay, allowances, and privileges of retirement of chiefs of bureaus of the Navy are incorporated. 5 U.S.C. 441 apparently relates the Judge Advocate General of the Navy to the Judge Advocate General of the Army, as well as to bureau chiefs. However, since the creation of the Department of the Air Force by the National Security Act of 1947, if the incorporation to the Army provision is retained, the saving provisions in the act require an incorporation also to the rank, etc., of the Judge Advocate General of the Air Force. The rank of the Judge Advocate General of each of the other departments is now specified in organizational law to be major general. Since it is possible that these ranks may at some future time not be the same, incorporation by reference to them is no longer appropriate. Instead, the section relates the Judge Advocate General's rank, pay, allowances, and privileges of retirement to those of bureau chiefs as does 5 U.S.C. 441, in part.

In subsection (c), clauses (1) and (4) are substituted for the words ''and perform such other duties as have heretofore been performed by the Solicitor and Naval Judge Advocate General'' to describe the duties of the

Judge Advocate General directly instead of by reference to the duties performed by an officer whose office was abolished more than 75 years ago.

Subsection (c)(2) is substituted for the reference, in 5 U.S.C. 428, to courts-martial and courts of inquiry, since the Uniform Code of Military Justice has superseded prior law as to the duties of the Judge Advocates General relating to these courts.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–163, § 1057(a)(2), struck out ''or Territory'' after ''highest court of a State''.

Pub. L. 109–163, § 508(b), substituted ''The Judge Advocate General, while so serving, shall hold a grade not lower than rear admiral or major general, as appropriate.'' for ''If an officer appointed as the Judge Advocate General holds a lower regular grade, the officer shall be appointed in the regular grade of rear admiral or major general, as appropriate.''

2004—Subsec. (e). Pub. L. 108–375 added subsec. (e).

1994—Subsec. (b). Pub. L. 103–337, § 504(b)(1)(A), added last sentence and struck out former last sentence which read as follows: ''While so serving, the Judge Advocate General of the Navy shall be entitled to the rank and grade of rear admiral or major general, as appropriate, unless entitled to a higher rank and grade under another provision of law.''

Subsec. (c). Pub. L. 103–337, § 504(b)(1)(B), added subsec. (c) and struck out former subsec. (c) which read as follows: ''The Judge Advocate General of the Navy is entitled to the same rank and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.''

1980—Subsec. (b). Pub. L. 96–513 inserted provision entitling Judge Advocate General of Navy to rank and grade of rear admiral or major general, as appropriate.

1967—Pub. L. 90–179, § 2(1)(A), inserted reference to Judge Advocate General's Corps in section catchline.

Subsecs. (a) to (d). Pub. L. 90–179, § 2(1)(B), (C), added subsec. (a), redesignated existing subsecs. (a) to (c) as (b) to (d), respectively, and in subsec. (b) as so redesignated substituted ''judge advocates'' for ''officers''.

1962—Subsec. (b). Pub. L. 87–649 struck out '', pay, allowances,'' after ''same rank''. See Title 37, Pay and Allowances of the Uniformed Services.

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.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

REDESIGNATION OF NAVY LAW SPECIALISTS AS JUDGE ADVOCATES

Pub. L. 90–179, § 8, Dec. 8, 1967, 81 Stat. 549, provided that:

''(a) In this section 'law specialist' means a line officer on the active or retired list of the Regular Navy or of the Naval Reserve designated for special duty (law) or a line officer of the Naval Reserve [now Navy Reserve] assigned a numerical designator indicating a special duty officer (law).

''(b) All law specialists in the Navy are redesignated as judge advocates in the Judge Advocate General's Corps of the Navy. Each law specialist of the Navy who is on a promotion list on the day before the effective date of this Act [Dec. 8, 1967] shall be placed on the appropriate promotion list for the Judge Advocate General's Corps and shall be eligible for promotion when the officer who is to be his running mate in the next higher grade becomes eligible for promotion in that grade.''

SAVINGS PROVISION

Section 10 of Pub. L. 90–179 provided that: ''This Act [enacting sections 5578a and 5587a of this title, amending this section, sections 801, 806, 815, 827, 865, 936, 5149, 5404, 5508, 5581, 5587, 5600, 5652a, 5702, 5708, 5753, 5762, 5896, 5897 and 6378 of this title, and section 202 of Title 37, and enacting provisions set out as notes under this section and section 5149 of this title] does not affect rights accrued, duties matured, or proceedings commenced before its effective date. Redesignation of an officer under section 8(b) of this Act [set out as a note under this section] shall not operate to change the computation of his service for any purpose.''

WOMEN OFFICERS IN JUDGE ADVOCATE GENERAL'S CORPS OF NAVY

Pub. L. 90–179, § 11, Dec. 8, 1967, 81 Stat. 549, provided that all provisions of law applicable to male officers in the Navy Judge Advocate General's Corps, including Naval Reserve, were applicable to women Corps officers, prior to repeal by Pub. L. 97–295, § 6(b), Oct. 12, 1982, 96 Stat. 1314.

## § 5149. Office of the Judge Advocate General: Deputy Judge Advocate General; Assistant Judge Advocates General

(a)(1) There is a Deputy Judge Advocate General of the Navy who is appointed by the President, by and with the advice and consent of the Senate, from among judge advocates of the Navy and Marine Corps who have the qualifications prescribed for the Judge Advocate General. If an officer appointed as the Deputy Judge Advocate General holds a lower regular grade, the officer shall be appointed in the regular grade of rear admiral or major general, as appropriate.

(2) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy, in selecting an officer for recommendation to the President for appointment as the Deputy Judge Advocate General, shall ensure that the officer selected is recommended by a board of officers that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.

(b) An officer of the Judge Advocate General's Corps who has the qualifications prescribed for the Judge Advocate General in section 5148(b) of this title may be detailed as Assistant Judge Advocate General of the Navy. While so serving, a judge advocate who holds a grade lower than rear admiral (lower half) shall hold the grade of rear admiral (lower half), if he is appointed to that grade by the President, by and with the advice and consent of the Senate. An officer who is retired while serving as Assistant Judge Advocate General of the Navy under this subsection or who, after serving at least twelve months as Assistant Judge Advocate General of the Navy, is retired after completion of that service while serving in a lower rank or grade, may, in the discretion of the President, be retired with the rank and grade of rear admiral (lower half). If he is retired as a rear admiral (lower half), he is entitled to the retired pay of that grade, unless entitled to higher pay under another provision of law.

(c) A judge advocate of the Marine Corps who has the qualifications prescribed for the Judge Advocate General in section 5148(b) of this title may be detailed as Assistant Judge Advocate General of the Navy. While so serving, a judge

advocate who holds a grade lower than brigadier general shall hold the grade of brigadier general, if he is appointed to that grade by the President, by and with the advice and consent of the Senate. An officer who is retired while serving as Assistant Judge Advocate General of the Navy under this subsection or who, after serving at least twelve months as Assistant Judge Advocate General of the Navy, is retired after completion of that service while serving in a lower rank or grade, may, in the discretion of the President, be retired with the rank and grade of brigadier general. If he is retired as a brigadier general, he is entitled to the retired pay of that grade, unless entitled to higher pay under another provision of law.

(d) When there is a vacancy in the Office of the Judge Advocate General, or during the absence or disability of the Judge Advocate General, the Deputy Judge Advocate General shall perform the duties of the Judge Advocate General until a successor is appointed or the absence or disability ceases.

(e) When subsection (d) cannot be complied with because of the absence or disability of the Deputy Judge Advocate General, the Assistant Judge Advocates General, in the order directed by the Secretary of the Navy, shall perform the duties of the Judge Advocate General.

(Aug. 10, 1956, ch. 1041, 70A Stat. 290; Pub. L. 85–861, § 33(a)(28), Sept. 2, 1958, 72 Stat. 1566; Pub. L. 87–649, § 14c(21), Sept. 7, 1962, 76 Stat. 501; Pub. L. 89–718, § 36, Nov. 2, 1966, 80 Stat. 1120; Pub. L. 90–179, § 2(2), Dec. 8, 1967, 81 Stat. 546; Pub. L. 90–623, § 2(9), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96–513, title V, § 503(13), Dec. 12, 1980, 94 Stat. 2912; Pub. L. 97–86, title IV, § 405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99–145, title V, § 514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 99–661, div. A, title V, § 508(b), Nov. 14, 1986, 100 Stat. 3867; Pub. L. 103–337, div. A, title V, § 504(b)(2), Oct. 5, 1994, 108 Stat. 2751.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5149(a) ..... | 5 U.S.C. 444 (less last 19 words). | Aug. 29, 1916, ch. 417 (3d par., 96th through 121st word), 39 Stat. 558. |
| | 5 U.S.C. 453 (as applicable to Asst. JAG). | Mar. 4, 1925, ch. 536, § 15 (as applicable to Asst. JAG), 43 Stat. 1275. |
| 5149(b) ..... | 5 U.S.C. 444 (last 19 words). | Aug. 29, 1916, ch. 417 (3d par., 122d word to end of par.), 39 Stat. 558. |
| 5149(c) ..... | 5 U.S.C. 432a (as applicable to JAG). | Feb. 3, 1942, ch. 35, § 1 (as applicable to JAG), 56 Stat. 47. |

Changes in phraseology are made to conform to the language used in § 5135 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–337 designated existing provisions as par. (1), added second sentence, struck out former second and third sentences which read as follows: ''While so serving he is entitled to the grade of rear admiral or major general, as appropriate, unless entitled to a higher grade under another provision of law. The Deputy Judge Advocate General is entitled to the same privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.'', and added par. (2).

1986—Subsec. (a). Pub. L. 99–661, § 508(b)(1), substituted ''There is a Deputy Judge Advocate General of the Navy who is appointed by the President, by and with the advice and consent of the Senate, from among judge advocates of the Navy and Marine Corps who have the qualifications prescribed for the Judge Advocate General'' for ''A judge advocate of the Navy or Marine Corps who has the qualifications prescribed for the Judge Advocate General in section 5148(b) of this title shall be detailed as Deputy Judge Advocate General of the Navy'', and struck out ''rank and'' before ''grade of'' and struck out ''rank or'' before ''grade under'' in second sentence.

Subsec. (b). Pub. L. 99–661, § 508(b)(2), substituted ''While so serving, a judge advocate who holds a grade lower than rear admiral (lower half) shall hold the grade of rear admiral (lower half), if he is appointed to that grade by the President, by and with the advice and consent of the Senate'' for ''While so serving he is entitled to the rank and grade of rear admiral (lower half), unless entitled to a higher rank or grade under another provision of law''.

Subsec. (c). Pub. L. 99–661, § 508(b)(3), substituted ''While so serving, a judge advocate who holds a grade lower than brigadier general shall hold the grade of brigadier general, if he is appointed to that grade by the President, by and with the advice and consent of the Senate'' for ''While so serving he is entitled to the rank and grade of brigadier general, unless entitled to a higher rank or grade under another provision of law''.

1985—Subsec. (b). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore'' in three places.

1981—Subsec. (b). Pub. L. 97–86 substituted ''commodore'' for ''commodore admiral'' in three places.

1980—Subsec. (a). Pub. L. 96–513, § 503(13)(A), struck out ''(upper half)'' after ''entitled to the rank and grade of rear admiral''.

Subsec. (b). Pub. L. 96–513, § 503(13)(B), (C), substituted ''rank and grade of commodore admiral'' for ''rank and grade of rear admiral (lower half)'' in two places, ''retired as a commodore admiral'' for ''retired as a rear admiral'', and ''retired pay of that grade'' for ''retired pay in the lower half of that grade''.

1968—Subsec. (c). Pub. L. 90–623 substituted ''5148(b)'' for ''4158(b)''.

1967—Pub. L. 90–179 inserted reference to Deputy Judge Advocate General and substituted ''Advocates General'' for ''Advocate General; succession to duties'' after ''Assistant Judge'' in section catchline.

Subsec. (a). Pub. L. 90–179 substituted provisions relating to the detailing of a judge advocate of the Navy or Marine Corps as Deputy Judge Advocate General of the Navy, his rank while so serving and retirement privileges for provisions relating to the detailing of an officer of the Navy or Marine Corps as Assistant Judge Advocate General.

Subsecs. (b) to (d). Pub. L. 90–179 added subsecs. (b) and (c), redesignated former subsecs. (b) and (c) as (d) and (e), respectively, and in subsec. (d), as so redesignated, substituted ''Deputy Judge Advocate General'' for ''Assistant Judge Advocate General, unless otherwise directed by the President,''.

Subsec. (e). Pub. L. 90–179 redesignated former subsec. (c) as (e) and in subsec. (e), as so redesignated, substituted provisions relating to the performance of the duties of the Judge Advocate General by the Assistant Judge Advocates General in the event of the absence or disability of the Deputy Judge Advocate General for provisions relating to the performance of such duties by the heads of the major divisions of the Office of the Judge Advocate General in the event of the absence or disability of the Assistant Judge Advocate General.

1966—Pub. L. 89–718 struck out ''pay,'' before ''succession'' in section catchline.

1962—Subsec. (a). Pub. L. 87–649 repealed last sentence which provided that a person detailed as Assistant Judge Advocate General is entitled to the highest pay of his rank. See section 202 of Title 37, Pay and Allowances of the Uniformed Services.

1958—Subsec. (b). Pub. L. 85–861 substituted ''office'' for ''Office''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–661 applicable with respect to appointments or details made on or after Nov. 14,

1986, see section 508(f) of Pub. L. 99–661, set out as an Effective Date note under section 12210 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, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85–861, set out as a note under section 101 of this title.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 1(8) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

OFFICER SERVING AS DEPUTY AND ASSISTANT JUDGE ADVOCATE OF THE NAVY ON DEC. 7, 1967; RANK; RETIREMENT BENEFITS

Section 9 of Pub. L. 90–179 provided that: ''Nothing in this Act [enacting sections 5578a and 5587a of this title, amending this section, sections 801, 806, 815, 827, 865, 936, 5148, 5404, 5508, 5581, 5587, 5600, 5652a, 5702, 5708, 5753, 5762, 5896, 5897, and 6378 of this title, and section 202 of Title 37, and enacting provisions set out as notes under this section and section 5184 of this title] shall operate to terminate or reduce the term of an officer who was serving as Deputy and Assistant Judge Advocate General of the Navy on the day before the effective date of this Act [Dec. 8, 1967] or to deprive to him of the rank, pay, allowances, or retirement privileges to which he was then entitled. Notwithstanding any other provision of law, an officer who was so serving on the day before the effective date of this Act shall be deemed to be detailed as Deputy Judge Advocate General, pursuant to section 5149 of title 10, United States Code, as amended by this Act [this section], and in addition to rights and benefits then accrued, to be entitled to the rank and retirement benefits authorized by that section. For the purposes of determining his eligibility for the retirement benefits authorized by section 5149 of title 10, United States Code, as amended by this Act [this section], an officer who is serving as Deputy Judge Advocate General on the effective date of this Act shall be credited with all service performed under appointment or detail as Deputy and Assistant Judge Advocate General before the effective date of this Act.''

## § 5150. Staff corps of the Navy

(a) The staff corps of the Navy are—

(1) the Medical Corps;

(2) the Dental Corps;

(3) the Judge Advocate General's Corps;

(4) the Chaplain Corps; and

(5) such other staff corps as may be established by the Secretary of the Navy under subsection (b).

(b)(1) The Secretary of the Navy may establish staff corps of the Navy in addition to the Medical Corps, the Dental Corps, the Judge Advocate General's Corps, and the Chaplain Corps. The Secretary may designate commissioned officers in, and may assign members to, any such staff corps.

(2) Subject to subsection (c), the Secretary of the Navy may provide for the appointment of the chief of any staff corps established under this subsection.

(c) The Secretary of the Navy, whenever the needs of the service require, may convene a selection board under section 611(a) of this title to select an officer in the Nurse Corps or in the Medical Service Corps (if such corps has been established under subsection (a)) for promotion to the grade of rear admiral, in the case of an officer in the Nurse Corps, or rear admiral (lower half), in the case of an officer in the Medical Service Corps. An officer promoted pursuant to such a selection shall be appointed by the Secretary to the position of Director of the Nurse Corps or Director of the Medical Service Corps, respectively, for a term of four years, to serve at the pleasure of the Secretary. For the purpose of computing the total number of flag officers in the staff corps of the Navy under section 526 of this title, an officer so appointed shall be considered an additional number in grade.

(Added Pub. L. 96–513, title III, § 351, Dec. 12, 1980, 94 Stat. 2902, § 5155; amended Pub. L. 97–22, § 6(a), July 10, 1981, 95 Stat. 129; Pub. L. 97–86, title IV, § 405(b)(1), Dec. 1, 1981, 95 Stat. 1105; renumbered § 5150, Pub. L. 99–433, title V, § 514(a)(2), Oct. 1, 1986, 100 Stat. 1054; Pub. L. 99–661, div. A, title XIII, § 1343(a)(23), Nov. 14, 1986, 100 Stat. 3994; Pub. L. 100–26, § 3(7), Apr. 21, 1987, 101 Stat. 274; Pub. L. 102–190, div. A, title X, § 1061(a)(22)(A), Dec. 5, 1991, 105 Stat. 1473; Pub. L. 107–314, div. A, title V, § 504(a)(2), Dec. 2, 2002, 116 Stat. 2531.)

PRIOR PROVISIONS

A prior section 5150 was renumbered section 5021 of this title.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–314 substituted ''for promotion to the grade of rear admiral, in the case of an officer in the Nurse Corps, or rear admiral (lower half), in the case of an officer in the Medical Service Corps'' for ''for promotion to the grade of rear admiral (lower half)'' in first sentence.

1991—Subsec. (c). Pub. L. 102–190 substituted ''section 526'' for ''section 5444''.

1987—Subsec. (c). Pub. L. 100–26 made technical amendment to directory language of Pub. L. 99–661, § 1343(a)(23). See 1986 Amendment note below.

1986—Subsec. (c). Pub. L. 99–661, as amended by Pub. L. 100–26, substituted ''rear admiral (lower half)'' for ''commodore''.

1981—Subsec. (c). Pub. L. 97–86 substituted ''commodore'' for ''commodore admiral''.

Pub. L. 97–22 substituted ''Nurse Corps or in the Medical Service Corps (if such corps has been established under subsection (a)) for promotion to the grade of commodore admiral'' for ''Nurse Corps or Medical Service Corps for promotion to the grade of commodore admiral or rear admiral, as appropriate'', substituted ''An officer promoted pursuant to such a selection shall be appointed by the Secretary to the position of Director of the Nurse Corps or Director of the Medical Service Corps, respectively, for a term of four years, to serve at the pleasure of the Secretary'' for ''An officer so selected shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years to serve in the position, respectively, of Director of the Nurse Corps or Director of the Medical Service Corps'', and inserted provision that for the purpose of

computing the total number of flag officers in the staff corps of the Navy under section 5444 of this title, an officer so appointed shall be considered an additional number in grade.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–26 applicable as if included in Pub. L. 99–661 when enacted on Nov. 14, 1986, see section 12(a) of Pub. L. 100–26, set out as a note under section 776 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

Section effective Sept. 15, 1981, but the authority to prescribe regulations under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment 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.

**[§ 5151. Renumbered § 5022]**

**[§ 5152. Renumbered § 5023]**

**[§ 5153. Renumbered § 5024]**

**[§ 5154. Repealed. Pub. L. 89–718, § 35(5), Nov. 2, 1966, 80 Stat. 1120]**

Section, added Pub. L. 86–174, § 1(2), Aug. 18, 1959, 73 Stat. 395, provided for appointment of Chief of the Bureau of Naval Weapons and detailing of Deputy Chief.

**[§ 5155. Renumbered § 5150]**

## [CHAPTER 515—REPEALED]

**[§§ 5201 to 5204. Repealed. Pub. L. 99–433, title V, § 513(a), Oct. 1, 1986, 100 Stat. 1051]**

Section 5201, acts Aug. 10, 1956, ch. 1041, 70A Stat. 292; May 20, 1958, Pub. L. 85–422, § 6(3), 72 Stat. 129; Aug. 6, 1958, Pub. L. 85–599, § 4(c), 72 Stat. 517; Sept. 7, 1962, Pub. L. 87–651, title I, § 114, 76 Stat. 513; June 5, 1967, Pub. L. 90–22, title IV, § 404, 81 Stat. 53; Dec. 12, 1980, Pub. L. 96–513, title V, § 503(15), 94 Stat. 2912; July 1, 1986, Pub. L. 99–348, title I, § 104(c)(1), 100 Stat. 691, related to appointment, term, etc., of the Commandant of the Marine Corps. See section 5043 of this title.

Section 5202, acts Aug. 10, 1956, ch. 1041, 70A Stat. 292; Aug. 6, 1958, Pub. L. 85–599, § 6(c), 72 Stat. 519; Sept. 7, 1962, Pub. L. 87–649, § 14c(24), 76 Stat. 501; May 2, 1969, Pub. L. 91–11, 83 Stat. 8; Mar. 4, 1976, Pub. L. 94–225, § 1, 90 Stat. 202; Dec. 12, 1980, Pub. L. 96–513, title V, §§ 503(15), 513(7)(B), 94 Stat. 2912, 2931, related to detail and duties of the Assistant Commandant of the Marine Corps. See section 5044 of this title.

Section 5203, act Aug. 10, 1956, ch. 1041, 70A Stat. 292, related to detail of the Director of Personnel of the Marine Corps.

Section 5204, acts Aug. 10, 1956, ch. 1041, 70A Stat. 292; Aug. 3, 1961, Pub. L. 87–123, § 5(2), 75 Stat. 264, related to detail of the Quartermaster General of the Marine Corps.

**[§ 5205. Repealed. Pub. L. 87–123, § 5(3), Aug. 3, 1961, 75 Stat. 264]**

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 293, related to retirement of heads of Marine Corps staff departments, their retired grade and pay.

**[§ 5206. Repealed. Pub. L. 96–513, title III, § 344(b), Dec. 12, 1980, 94 Stat. 2901]**

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 293; Sept. 7, 1962, Pub. L. 87–649, § 6(c)(4), 76 Stat. 494; Nov. 8, 1967, Pub. L. 90–130, § 1(15), 81 Stat. 376, established in Office of Commandant of Marine Corps the position of Director of Women Marines.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## [CHAPTER 516—REPEALED]

**[§§ 5221, 5222. Repealed. Pub. L. 95–82, title VI, § 611(a), Aug. 1, 1977, 91 Stat. 378]**

Section 5221, added Pub. L. 90–110, title X, § 1001(1), Oct. 21, 1967, 81 Stat. 310, provided for inclusion of naval districts within organization of Department of the Navy.

Section 5222, added Pub. L. 90–110, title X, § 1001(1), Oct. 21, 1967, 81 Stat. 310, provided for detailing of officers of the Navy not below the grade of rear admiral as commandants of each of naval districts.

## [CHAPTER 517—REPEALED]

**[§§ 5231 to 5234. Repealed. Pub. L. 96–513, title III, § 331, Dec. 12, 1980, 94 Stat. 2896]**

Section 5231, acts Aug. 10, 1956, ch. 1041, 70A Stat. 294; July 30, 1977, Pub. L. 95–79, title VIII, § 811(b)(1), (2), 91 Stat. 336; Oct. 20, 1978, Pub. L. 95–485, title VIII, § 818(a), 92 Stat. 1626, related to designation by President of officers on active list of Navy above the grade of captain and, in time of war or national emergency, above the grade of commander for fleet commands and other high positions. See section 601 of this title.

Section 5232, acts Aug. 10, 1956, ch. 1041, 70A Stat. 295; July 30, 1977, Pub. L. 95–79, title VIII, § 811(b)(3), (4), 91 Stat. 336; Oct. 20, 1978, Pub. L. 95–485, title VIII, § 818(b), 92 Stat. 1626, related to designation by President of officers on active list of Marine Corps above the grade of colonel and, in time of war or national emergency, above the grade of lieutenant colonel for appropriate higher commands or performance of duty of great importance and responsibility. See section 601 of this title.

Section 5233, acts Aug. 10, 1956, ch. 1041, 70A Stat. 295; May 20, 1958, Pub. L. 85–422, § 6(4), 72 Stat. 129; related to retirement of an officer serving or having served in a grade to which appointed under former sections 5231 or 5232 of this title. See section 601 of this title.

Section 5234, acts Aug. 10, 1956, ch. 1041, 70A Stat. 295; Apr. 21, 1976, Pub. L. 94–273, § 2(3), 90 Stat. 375, authorized President during time of war or national emergency to suspend any provision of former sections 5231 or 5232 of this title relating to distribution in grade.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## [CHAPTER 519—REPEALED]

**[§§ 5251, 5252. Repealed. Pub. L. 103–337, div. A, title XVI, § 1661(a)(3)(A), Oct. 5, 1994, 108 Stat. 2980]**

Section 5251, act Aug. 10, 1956, ch. 1041, 70A Stat. 295, related to administration of Naval Reserve by Chief of

Naval Operations and Naval Reserve Policy Board. See sections 10108 and 10303 of this title.

Section 5252, act Aug. 10, 1956, ch. 1041, 70A Stat. 296, related to administration of Marine Corps Reserve by Commandant of Marine Corps and Marine Corps Reserve Policy Board. See sections 10109 and 10304 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

# PART II—PERSONNEL


| Chap. | | Sec. |
|---|---|---|
| [531. | Repealed.] | |
| 533. | Distribution in Grade | 5441 |
| 535. | Grade and Rank of Officers | 5501 |
| 537. | Enlistments | 5531 |
| 539. | Original Appointments | 5571 |
| [541. | Repealed.] | |
| [543. | Repealed.] | |
| 544. | Temporary Appointments | 5721 |
| [545. | Repealed.] | |
| [547. | Repealed.] | |
| [549. | Repealed.] | |
| 551. | Officers in Command | 5941 |
| 553. | Special Assignments and Details | 5981 |
| 555. | Administration | 6011 |
| 557. | Rations | 6081 |
| 559. | Miscellaneous Prohibitions and Penalties | 6111 |
| 561. | Miscellaneous Rights and Benefits | 6141 |
| 563. | Hospitalization and Medical Care | 6201 |
| 565. | Bands | 6221 |
| 567. | Decorations and Awards | 6241 |
| 569. | Discharge of Enlisted Members | 6291 |
| 571. | Voluntary Retirement | 6321 |
| 573. | Involuntary Retirement, Separation, and Furlough | 6371 |
| 575. | Recall to Active Duty | 6481 |
| 577. | Death Benefits; Care of the Dead | 6521 |


AMENDMENTS

1994—Pub. L. 103–337, div. A, title XVI, §1673(a)(3), Oct. 5, 1994, 108 Stat. 3015, struck out items for chapters 531 ''Strength of Naval Reserve and Marine Corps Reserve'', 541 ''Running Mates for Reserve Officers'', and 549 ''Reserve Promotions''.

1980—Pub. L. 96–513, title V, §503(16), Dec. 12, 1980, 94 Stat. 2912, inserted ''of Naval Reserve and Marine Corps Reserve'' after ''Strength'' in item for chapter 531, inserted ''for Reserve Officers'' after ''Running Mates'' in item for chapter 541, struck out item for chapter 543 ''Selection Boards'', added item for chapter 544, and struck out items for chapter 545 ''Promotions'' and for chapter 547 ''Examinations for Promotion''.

1958—Pub. L. 85–861, §1(134), Sept. 2, 1958, 72 Stat. 1507, added item for chapter 549.

SUSPENSION OF CERTAIN SECTIONS OF TITLE 10 AND AMENDMENTS TO OFFICER PERSONNEL ACT OF 1947

Act Aug. 10, 1956, ch. 1041, §48, 70A Stat. 639, as amended by Pub. L. 109–163, div. A, title V, §515(h), Jan. 6, 2006, 119 Stat. 3237, provided that:

''SEC. 48. (a) Except as they may apply to women officers of the Regular Navy or the Regular Marine Corps appointed under section 5590 of title 10, United States Code, enacted by section 1 of this Act, the following sections of title 10 cease to operate whenever the number of male officers serving on active duty in the grade of ensign or above in the line of the Navy does not exceed the number of male officers holding permanent appointments in the grade of ensign or above on the active list in the line of the Regular Navy: Sections 5505, 5508, 5596, 5651–5663, 5701–5703, 5705–5711, 5751, 5753–5759, 5761, 5762, 5764–5770, 5785, 5786, 5791, 6371–6384, 6386, 6407.

''(b) For the purposes of subsection (a), the following officers may not be considered officers serving on active duty:

''(1) Retired officers.

''(2) Officers of the Navy Reserve assigned to active duty for training.

''(3) Officers of the Navy Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, or drilling the Navy Reserve or the Marine Corps Reserve.

''(4) Officers of the Navy Reserve ordered to temporary active duty for the purpose of prosecuting special work.

''(c) Title IV of the Officer Personnel Act of 1947 (61 Stat. 869), as amended, is amended by adding the following new section at the end thereof:

''[SEC. 437. Repealed. Pub. L. 104–106, div. A, title XV, §1505(a), Feb. 10, 1996, 110 Stat. 514.]''

## [CHAPTER 531—REPEALED]

### [§§ 5401 to 5409. Repealed. Pub. L. 96–513, title III, §311(a), Dec. 12, 1980, 94 Stat. 2889]

Section 5401, act Aug. 10, 1956, ch. 1041, 70A Stat. 297, prescribed authorized strength of Regular Navy in enlisted members. See section 521 et seq. of this title.

Section 5402, act Aug. 10, 1956, ch. 1041, 70A Stat. 297, prescribed authorized strength of Regular Marine Corps. See section 521 et seq. of this title.

Section 5403, act Aug. 10, 1956, ch. 1041, 70A Stat. 297, prescribed authorized strength of active list of the Navy in line officers. See section 521 et seq. of this title.

Section 5404, acts Aug. 10, 1956, ch. 1041, 70A Stat. 297; Oct. 13, 1964, Pub. L. 88–647, title III, §301(12), 78 Stat. 1072; Dec. 8, 1967, Pub. L. 90–179, §3, 81 Stat. 547, prescribed authorized strength of active list of Navy in officers in Supply Corps and Civil Engineer Corps, directed Secretary of Navy to compute annually the authorized strength of active list of Navy in officers in Medical Corps, Dental Corps, Chaplain Corps, Medical Service Corps, and Nurse Corps, and to establish annually the authorized strength of active list of Navy in officers in Judge Advocate General's Corps. See section 521 et seq. of this title.

Section 5405, act Aug. 10, 1956, ch. 1041, 70A Stat. 298, prescribed authorized strength of active list of Marine Corps. See section 521 et seq. of this title.

Section 5406, acts Aug. 10, 1956, ch. 1041, 70A Stat. 298; July 5, 1968, Pub. L. 90–386, §1(1), 82 Stat. 293, limited actual number of officers on active list in line of Navy that could be designated for engineering duty. See section 521 et seq. of this title.

Section 5407, acts Aug. 10, 1956, ch. 1041, 70A Stat. 298; July 5, 1968, Pub. L. 90–386, §1(2), 82 Stat. 293, limited actual number of officers on active list in line of Navy that could be designated for aeronautical engineering duty. See section 521 et seq. of this title.

Section 5408, acts Aug. 10, 1956, ch. 1041, 70A Stat. 298; July 5, 1968, Pub. L. 90–386, §1(3), 82 Stat. 293, limited actual number of officers on the active list in line of Navy that could be designated for special duty. See section 521 et seq. of this title.

Section 5409, acts Aug. 10, 1956, ch. 1041, 70A Stat. 298; Aug. 3, 1961, Pub. L. 87–123, §5(5), 75 Stat. 264, prescribed number of officers of actual number of officers on active lists in the line of Navy and of Marine Corps, that could be designated for limited duty. See section 521 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§§ 5410, 5411. Repealed. Pub. L. 90–130, §1(16), Nov. 8, 1967, 81 Stat. 376]

Section 5410, act Aug. 10, 1956, ch. 1041, 70A Stat. 928, placed upper limits, stated in terms of percentages of the authorized strength of the Regular Navy and Regular Marine Corps in enlisted members, on the authorized strength of enlisted women in each.

Section 5411, act Aug. 10, 1956, ch. 1041, 70A Stat. 299, placed upper limits, stated in terms of percentages of the authorized strength in enlisted women of the Regular Navy and Regular Marine Corps, on the authorized strength of the Regular Navy and Regular Marine Corps in women officers.

### [§ 5412. Repealed. Pub. L. 96–513, title III, § 311(a), Dec. 12, 1980, 94 Stat. 2889]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 299, prescribed authorized strength of Regular Navy in enlisted members in Hospital Corps. See section 521 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§§ 5413, 5414. Repealed. Pub. L. 103–337, div. A, title XVI, § 1662(a)(3), Oct. 5, 1994, 108 Stat. 2988]

Section 5413, act Aug. 10, 1956, ch. 1041, 70A Stat. 299, related to authorized strengths of Naval Reserve and Marine Corps Reserve. See section 12001(a) of this title.

Section 5414, added Pub. L. 85–861, § 1(110)(A), Sept. 2, 1958, 72 Stat. 1490; amended Pub. L. 86–559, § 1(33), (34), June 30, 1960, 74 Stat. 273; Pub. L. 96–513, title V, § 513(8)(B), Dec. 12, 1980, 94 Stat. 2931; Pub. L. 102–190, div. A, title XI, § 1131(8)(A), Dec. 5, 1991, 105 Stat. 1506, related to authorized strength of Naval Reserve and Marine Corps Reserve in officers in active status in grades above chief warrant officer, W–5. See section 12003 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

### [§§ 5415 to 5417. Repealed. Pub. L. 96–513, title III, §§ 311(a), 312, Dec. 12, 1980, 94 Stat. 2889]

Section 5415, added Pub. L. 85–861, § 1(110)(A), Sept. 2, 1958, 72 Stat. 1490, excluded enlisted members of the Navy or Marine Corps serving as midshipmen or cadets in any of the military academies from computations of authorized strengths. See section 521 et seq. of this title.

Section 5416, added Pub. L. 85–861, § 1(110)(A), Sept. 2, 1958, 72 Stat. 1490, excluded members of the Navy or the Marine Corps, or of the Coast Guard when it is operating as a service in the Navy, detailed for duty with United States agencies outside the Department of Defense on a reimbursable basis, from computations of authorized strengths or numbers in grade. See section 521 et seq. of this title.

Section 5417, added Pub. L. 85–861, § 1(110)(A), Sept. 2, 1958, 72 Stat. 1490, directed Secretary of Defense, with approval of President, to estimate annually, for each of five years following such estimate, the strengths of the Navy and the Marine Corps in officers on active lists exclusive of officers specifically authorized as additional numbers. See section 521 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## CHAPTER 533—DISTRIBUTION IN GRADE

Sec.
5441. Prescribed number; vacancies.
[5442 to 5449. Repealed.]
5450. Regular Navy: retired flag officers on active duty.
5451. Suspension: preceding sections.
[5452 to 5458. Repealed.]

AMENDMENTS

1996—Pub. L. 104–106, div. A, title XV, § 1501(c)(20), Feb. 10, 1996, 110 Stat. 499, struck out item 5454 ''Computations: rule when fraction occurs in final result''.

1994—Pub. L. 103–337, div. A, title XVI, § 1673(b)(1), Oct. 5, 1994, 108 Stat. 3016, struck out items 5456 ''Naval Reserve and Marine Corps Reserve'', 5457 ''Naval Reserve: officers in an active status in grades above chief warrant officer, W–5'', and 5458 ''Marine Corps Reserve: officers in an active status in grades above chief warrant officer, W–5''.

1991—Pub. L. 102–190, div. A, title XI, § 1131(8)(B), Dec. 5, 1991, 105 Stat. 1506, substituted ''W–5'' for ''W–4'' in items 5457 and 5458.

1990—Pub. L. 101–510, div. A, title IV, § 403(b)(2)(B), Nov. 5, 1990, 104 Stat. 1545, struck out items 5442 ''Navy: line officers on active duty; rear admirals (lower half) and rear admirals'', 5443 ''Marine Corps: officers on active duty; brigadier generals and major generals'', 5444 ''Navy: staff corps officers on active duty; rear admirals (lower half) and rear admirals'', and 5446 ''Application: sections 5442, 5443, 5444''.

1985—Pub. L. 99–145, title V, § 514(b)(6)(B), (7)(B), Nov. 8, 1985, 99 Stat. 629, substituted ''rear admirals (lower half)'' for ''commodores'' in items 5442 and 5444.

1981—Pub. L. 97–86, title IV, § 405(b)(6)(B), (7)(B), Dec. 1, 1981, 95 Stat. 1106, substituted ''commodores'' for ''commodore admirals'' in items 5442 and 5444.

Pub. L. 97–22, § 10(b)(6)(B), July 10, 1981, 95 Stat. 137, struck out item 5455 ''Computations and determinations: effect on status of officers''.

1980—Pub. L. 96–513, title V, §§ 503(18), 513(9)(A), Dec. 12, 1980, 94 Stat. 2912, 2931, inserted ''; commodore admirals and rear admirals'' in item 5442, inserted ''; brigadier generals and major generals'' in item 5443, inserted ''; commodore admirals and rear admirals'' in item 5444, struck out items 5445 ''Suspension: sections 5442, 5443, 5444'', 5447 ''Navy: line officers on the active list; permanent grade'', 5448 ''Marine Corps: officers on the active list; permanent grade'', 5449 ''Navy: staff corps officers on the active list; permanent grade'', and 5452 ''Navy: women line officers on active duty; Marine Corps: women officers on active duty'', and substituted ''in grades'' for ''in permanent grades'' in items 5457 and 5458.

1967—Pub. L. 90–130, § 1(17)(F), (H), Nov. 8, 1967, 81 Stat. 377, struck out item 5453 ''Marine Corps: women officers on the active list; permanent grade'', and substituted: ''Navy: women line officers on active duty; Marine Corps: women officers on active duty'' for ''Navy: women line officers on the active list; permanent grade'' in item 5452.

1958—Pub. L. 85–861, § 1(113)(B), Sept. 2, 1958, 72 Stat. 1492, added items 5457 and 5458.

### § 5441. Prescribed number; vacancies

In this chapter, the term ''prescribed number'' or ''number . . . prescribed'' as applied to a grade, means the number of officers of a described corps, designation, or other category that shall be maintained in the grade concerned. Except as otherwise specifically provided, the actual number of officers in a grade may not exceed the prescribed number. Vacancies occur whenever, and to the extent that, the actual number falls below the prescribed number.

(Aug. 10, 1956, ch. 1041, 70A Stat. 299; Pub. L. 96–513, title III, § 313(a), Dec. 12, 1980, 94 Stat. 2889; Pub. L. 101–189, div. A, title XVI, § 1622(e)(8), Nov. 29, 1989, 103 Stat. 1605.)

HISTORICAL AND REVISION NOTES

This section is derived from the distribution-in-grade provisions of the Officers Personnel Act of 1947. It is in-

serted here to show clearly what is meant by the ''authorized number'' of officers in a grade as used in the distribution-in-grade sections of the Officer Personnel Act. ''Prescribed number'' is substituted for ''authorized number'' because the latter, as used in other provisions of law, means simply the maximum number of persons authorized to be in a designated category. As used in the distribution-in-grade provisions of the Officer Personnel Act the term means not only the maximum number of officers that may be in a particular grade, but also the number of officers that should be maintained in that grade. It places not only a ceiling but a floor on the number of officers for the grade concerned. This is accomplished by establishing vacancies when the actual number of officers in the grade concerned falls below the ''authorized'' or, as used here, the ''prescribed'' number. Where there is a prescribed number for a grade, an officer should, in the absence of other controlling provisions of law, be promoted to that grade to fill an existing vacancy, as of the date on which the vacancy occurred. In this manner, at least constructively, the prescribed number is maintained.

There is no source for the section because the Officer Personnel Act did not attempt specifically to define ''authorized number'' in this context. The meaning of the term is derived only from understanding the effect given it throughout the Officer Personnel Act and from the imperative requirements of sections 103, 203, and 303 of the act.

AMENDMENTS

1989—Pub. L. 101–189 inserted '', the term'' after ''In this chapter''.

1980—Pub. L. 96–513 struck out ''or combination of grades'' after ''to a grade'', after ''in the grade'', and after ''in a grade''.

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.

### [§§ 5442 to 5444. Repealed. Pub. L. 101–510, div. A, title IV, § 403(b)(2)(A), Nov. 5, 1990, 104 Stat. 1545]

Section 5442, acts Aug. 10, 1956, ch. 1041, 70A Stat. 300; Pub. L. 90–386, § 1(4), July 5, 1968, 82 Stat. 293; Dec. 12, 1980, Pub. L. 96–513, title III, § 313(b), 94 Stat. 2889; Dec. 1, 1981, Pub. L. 97–86, title IV, § 405(b)(1), (3), (6)(A), 95 Stat. 1105, 1106; Nov. 8, 1985, Pub. L. 99–145, title V, § 514(b)(1), (3), (6)(A), 99 Stat. 628; Nov. 14, 1986, Pub. L. 99–661, div. A, title XIII, § 1343(a)(24), 100 Stat. 3994, set forth number of officers serving on active duty in Navy who may serve in grades of rear admiral (lower half) and rear admiral.

Section 5443, acts Aug. 10, 1956, ch. 1041, 70A Stat. 302; Aug. 3, 1961, Pub. L. 87–123, § 5(6), 75 Stat. 265; Nov. 2, 1966, Pub. L. 89–731, § 1, 80 Stat. 1160; Dec. 12, 1980, Pub. L. 96–513, title III, § 313(c), 94 Stat. 2891, related to number of officers in Marine Corps on active duty who may serve in grades of brigadier general and major general.

Section 5444, acts Aug. 10, 1956, ch. 1041, 70A Stat. 304; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(1)–(3), 71 Stat. 381; Nov. 8, 1967, Pub. L. 90–130, § 1(17)(A), (B), 81 Stat. 376; Dec. 12, 1980, Pub. L. 96–513, title III, § 302, title V, § 503(19), 94 Stat. 2888, 2912; July 10, 1981, Pub. L. 97–22, §§ 6(b), 10(a)(3), 95 Stat. 130, 136; Dec. 1, 1981, Pub. L. 97–86, title IV, § 405(b)(1)–(3), (7)(A), 95 Stat. 1105, 1106; Nov. 8, 1985, Pub. L. 99–145, title V, § 514(b)(1)–(3), (7)(A), 99 Stat. 628, 629, related to total number of officers who may serve on active duty in Navy in grades of rear admiral (lower half) and rear admiral in staff corps.

### [§ 5445. Repealed. Pub. L. 96–513, title III, § 313(d)(1), Dec. 12, 1980, 94 Stat. 2892]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 306, related to suspension of sections 5442, 5443, and 5444 of this title. See section 526 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§ 5446. Repealed. Pub. L. 101–510, div. A, title IV, § 403(b)(2)(A), Nov. 5, 1990, 104 Stat. 1545]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 306; Dec. 12, 1980, Pub. L. 96–513, title III, § 373(a), title V, § 503(20), 94 Stat. 2903, 2912, related to applicability of sections 5442, 5443, and 5444 of this title.

### [§§ 5447 to 5449. Repealed. Pub. L. 96–513, title III, § 313(d)(2)–(4), Dec. 12, 1980, 94 Stat. 2892]

Section 5447, acts Aug. 10, 1956, ch. 1041, 70A Stat. 307; July 5, 1968, Pub. L. 90–386, § 1(4), 82 Stat. 293, related to permanent grade distribution of Navy line officers on active list. See section 521 et seq. of this title.

Section 5448, acts Aug. 10, 1956, ch. 1041, 70A Stat. 309; Aug. 3, 1961, Pub. L. 87–123, § 5(7), 75 Stat. 265, related to permanent grade distribution of Marine Corps officers on active list. See section 521 et seq. of this title.

Section 5449, acts Aug. 10, 1956, ch. 1041, 70A Stat. 311; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(4), 71 Stat. 381; Nov. 8, 1967, Pub. L. 90–130, § 1(17)(C), (D), 81 Stat. 376, related to number of Navy staff corps officers on active list in permanent grade of rear admiral. See section 525 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### § 5450. Regular Navy: retired flag officers on active duty

Except in time of war or national emergency, not more than ten retired flag officers of the Regular Navy may be on active duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 312; Pub. L. 96–513, title V, § 503(21), Dec. 12, 1980, 94 Stat. 2912.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5450 ..... | 34 U.S.C. 211e. | Aug. 7, 1947, ch. 512, § 430, 61 Stat. 881; Sept. 3, 1954, ch. 1257, § 702(a), 68 Stat. 1188. |

In subsection (a) the words ''In addition * * * to the number of rear admirals and above authorized by titles I, II, and III and by section 413 of this Act, a total of'' are omitted as surplusage. Titles I, II, and III, and section 413 of the Officer Personnel Act of 1947 prescribe the number of officers on the lineal list who may have the grade of rear admiral. Retired officers are excluded from the lineal lists and are not counted for any purpose in the computations under the cited titles and section. The source text does not affect the authorized numbers so computed; it sets up an authorized number for a category of officers not previously covered.

The limitation on reserve flag officers on active duty contained in section 430 of the Officer Personnel Act of 1947 was repealed by section 702(a) of the Reserve Officer Personnel Act of 1954.

AMENDMENTS

1980—Pub. L. 96–513 struck out designation ''(a)'' before ''Except in time of war or national emergency'', substituted ''flag officers of the Regular Navy'' for ''officers of the Regular Navy in the grade of rear admiral and above'', and struck out subsec. (b) which provided that this section did not apply to fleet admirals or to

retired officers ordered to temporary duty to serve on boards convened under chapter 543 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.

### § 5451. Suspension: preceding sections

The President, during a war or national emergency, may suspend any provision of the preceding sections of this chapter. Such a suspension may not continue beyond September 30 of the fiscal year following that in which the war or national emergency ends.

(Aug. 10, 1956, ch. 1041, 70A Stat. 312; Pub. L. 94–273, § 2(3), Apr. 21, 1976, 90 Stat. 375; Pub. L. 96–513, title V, § 503(22), Dec. 12, 1980, 94 Stat. 2913; Pub. L. 102–190, div. A, title X, § 1061(a)(21), Dec. 5, 1991, 105 Stat. 1473.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5451(a) ..... | 34 U.S.C. 3e. | Aug. 7, 1947, ch. 512, § 426(c); added June 30, 1951, ch. 196, § 1(h), 65 Stat. 109. |
| 5451(b) ..... | 34 U.S.C. 5a–1. | May 5, 1954, ch. 180, § 403 68 Stat. 70. |

AMENDMENTS

1991—Pub. L. 102–190 substituted ''The President'' for ''(a) Except as provided in subsection (b), the President'' and struck out subsec. (b) which authorized President to suspend provisions of sections 5442, 5443, and 5444 of this title only during war or national emergency declared by Congress or President after May 5, 1954.

1980—Subsec. (b). Pub. L. 96–513 struck out ''relating to officers serving in grades above lieutenant in the Navy or captain in the Marine Corps'' after ''and 5444 of this title''.

1976—Subsec. (a). Pub. L. 94–273 substituted ''September'' for ''June''.

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.

### [§ 5452. Repealed. Pub. L. 96–513, title III, § 373(b), Dec. 12, 1980, 94 Stat. 2903]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 312; Sept. 2, 1958, Pub. L. 85–861, § 1(111), 72 Stat. 1491; Nov. 8, 1967, Pub. L. 90–130, § 1(17)(E), 81 Stat. 376, authorized Secretary of the Navy to prescribe number of women officers in line of Navy eligible to hold appointments in each grade above lieutenant (junior grade) and a similar number in Marine Corps eligible to hold appointments in each grade above first lieutenant.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§ 5453. Repealed. Pub. L. 90–130, § 1(17)(F), Nov. 8, 1967, 81 Stat. 377]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 313; Sept. 2, 1958, Pub. L. 85–861, § 1(112), 72 Stat. 1491, placed upper limits on number of women officers on active list of Marine Corps holding permanent appointments in grades of lieutenant colonel and major and required the Secretary to make computations at least once annually of numbers of women officers authorized under this section to hold permanent appointments in such grades, with authority to make prescribed temporary increases. See section 5452 of this title.

### [§ 5454. Repealed. Pub. L. 103–337, div. A, title XVI, § 1662(a)(3), Oct. 5, 1994, 108 Stat. 2988]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 313, related to rule for computations under this chapter when fraction occurs in final result. See section 12010 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

### [§ 5455. Repealed. Pub. L. 97–22, § 10(b)(6)(A), July 10, 1981, 95 Stat. 137]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 313; Nov. 8, 1967, Pub. L. 90–130, § 1(17)(G), 81 Stat. 377; Dec. 12, 1980, Pub. L. 96–513, title V, § 503(23), (24), 94 Stat. 2913 as amended July 10, 1981, Pub. L. 97–22, § 10(a)(3), 95 Stat. 136, provided that no computation or determination under section 5447, 5448, 5449, or 5452 of this title could reduce the grade or pay of any officer or remove any officer from the active list.

EFFECTIVE DATE OF REPEAL

Section 10(b) of Pub. L. 97–22 provided that the repeal is effective Sept. 15, 1981.

### [§§ 5456 to 5458. Repealed. Pub. L. 103–337, div. A, title XVI, § 1662(a)(3), Oct. 5, 1994, 108 Stat. 2988]

Section 5456, act Aug. 10, 1956, ch. 1041, 70A Stat. 313, related to authorized strengths of Naval Reserve and Marine Corps Reserve. See section 12001(b) of this title.

Section 5457, added Pub. L. 85–861, § 1(113)(A), Sept. 2, 1958, 72 Stat. 1491; amended Pub. L. 86–559, § 1(35), (36), June 30, 1960, 74 Stat. 273; Pub. L. 92–559, Oct. 25, 1972, 86 Stat. 1173; Pub. L. 96–107, title III, § 302(b), Nov. 9, 1979, 93 Stat. 806; Pub. L. 96–513, title III, § 313(e), title V, § 513(9)(B), Dec. 12, 1980, 94 Stat. 2892, 2931; Pub. L. 97–86, title IV, § 405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99–145, title V, § 514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 101–189, div. A, title VII, § 712, Nov. 29, 1989, 103 Stat. 1477; Pub. L. 102–190, div. A, title X, § 1061(a)(22)(B), title XI, § 1131(8)(A), Dec. 5, 1991, 105 Stat. 1473, 1506, related to authorized strength of Naval Reserve in officers in active status in grades above chief warrant officer, W–5. See sections 12004(a), (c), and (e)(2) and 12005(b) and (d)(2) of this title.

Section 5458, added Pub. L. 85–861, § 1(113)(A), Sept. 2, 1958, 72 Stat. 1492; amended Pub. L. 86–559, § 1(37)–(39), June 30, 1960, 74 Stat. 273; Pub. L. 96–107, title III, § 302(c), Nov. 9, 1979, 93 Stat. 806; Pub. L. 96–513, title V, § 513(9)(C), Dec. 12, 1980, 94 Stat. 2931; Pub. L. 102–190, div. A, title X, § 1061(a)(22)(C), title XI, § 1131(8)(A), Dec. 5, 1991, 105 Stat. 1473, 1506, related to authorized strength of Marine Corps Reserve in officers in active status in grades above chief warrant officer, W–5. See sections 12004(a), (d), (e)(2) and 12005(c), (d)(2) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

## CHAPTER 535—GRADE AND RANK OF OFFICERS

Sec.
5501. Navy: grades above chief warrant officer, W–5.
5502. Marine Corps: grades above chief warrant officer, W–5.

Sec.
5503. Navy and Marine Corps: warrant officer grades.
[5504 to 5507. Repealed.]
5508. Rank of line and staff corps officers of the Navy and officers of the Marine Corps.

AMENDMENTS

1994—Pub. L. 103–337, div. A, title XVI, § 1673(d)(2), Oct. 5, 1994, 108 Stat. 3016, struck out item 5506 ''Naval Reserve and Marine Corps Reserve; officers: precedence''.

1991—Pub. L. 102–190, div. A, title XI, § 1131(8)(B), Dec. 5, 1991, 105 Stat. 1506, substituted ''W–5'' for ''W–4'' in items 5501 and 5502.

1980—Pub. L. 96–513, title V, §§ 503(25), 513(10), Dec. 12, 1980, 94 Stat. 2913, 2932, struck out items 5504 ''Lineal lists: maintenance'', 5505 ''Reserve officers: change of lineal position'', and 5507 ''Rear admirals: determination of upper half''.

1958—Pub. L. 85–861, § 1(114)(B), Sept. 2, 1958, 72 Stat. 1493, added item 5506.

## § 5501. Navy: grades above chief warrant officer, W–5

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

(1) Admiral.
(2) Vice admiral.
(3) Rear admiral.
(4) Rear admiral (lower half).
(5) Captain.
(6) Commander.
(7) Lieutenant commander.
(8) Lieutenant.
(9) Lieutenant (junior grade).
(10) Ensign.

(Aug. 10, 1956, ch. 1041, 70A Stat. 314; Pub. L. 96–513, title III, § 301, Dec. 12, 1980, 94 Stat. 2887; Pub. L. 97–86, title IV, § 405(a), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 99–145, title V, § 514(a)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 102–190, div. A, title XI, § 1131(8)(A), Dec. 5, 1991, 105 Stat. 1506.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5501(a) ..... | 34 U.S.C. 1. | R.S. 1362; Mar. 3, 1883, ch. 97, § 1 (2d par. on p. 472, as applicable to masters and junior grade lieutenants), 22 Stat. 472; Mar. 3, 1899, ch. 413, § 7 (1st sentence, less proviso), 30 Stat. 1005. |
| | 34 U.S.C. 211d(a) (as applicable to grades of admiral and vice admiral). | Aug. 7, 1947, ch. 512, § 413(a) (as applicable to grades of admiral and vice admiral), 61 Stat. 875. |
| | 34 U.S.C. 10a (1st sentence). | Aug. 7, 1947, ch. 512, § 405 (1st sentence), 61 Stat. 872. |
| 5501(b) ..... | 34 U.S.C. 350e (1st sentence). | July 24, 1941, ch. 320, § 6 (1st sentence), 55 Stat. 604; Apr. 9, 1943, ch. 38, § 1, 57 Stat. 59; Oct. 12, 1949, ch. 681, § 531(b)(28), 63 Stat. 839. |

The Act of July 24, 1941, ch. 320, as amended (34 U.S.C. 350 et seq.), and § 413 of the Officer Personnel Act of 1947 (34 U.S.C. 211d) provide for the temporary appointment of officers to grades up to and including admiral. Staff corps officers, women officers, and reserve officers are not excluded from the operation of the provisions of the 1941 Act. Since authority exists for the appointment of officers of any category in any grade in the Navy, the existence of every grade in the several staff corps and in the Naval Reserve is recognized, and the restriction of these grades to the active list of the line is removed.

The grade of Fleet Admiral is omitted inasmuch as the law authorizing appointments in this grade was limited.

In subsection (a) the words ''above the grade of chief warrant officer, W–4'' are inserted for clarity.

Subsection (c) is added to make clear the fact that an officer serving in a position, such as chief of bureau, which entitles him to the rank, pay, and allowances of a rear admiral of the upper half ranks rear admirals receiving the pay and allowances of the lower half even though he has not been appointed to the grade of rear admiral or, if so appointed, is in the lower half. A statement of this fact is necessary to give full effect to 5 U.S.C. 441 which provides that chiefs of bureaus of the Navy Department and the Judge Advocate General of the Navy, while so serving, shall have ''corresponding rank and shall receive the same pay and allowances * * * as * * * chiefs of bureaus of the War Department and the Judge Advocate General of the Army''. The rank so conferred, corresponding to the Army rank of major general, is rear admiral of the upper half. In §§ 5133 and 5148 of this title, based on 5 U.S.C. 441, the reference to the Army rank is eliminated and the corresponding Navy rank is substituted. The substitution is made because, as stated in the revision notes on 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

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 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.

### § 5502. 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; Pub. L. 102–190, div. A, title XI, § 1131(8)(A), Dec. 5, 1991, 105 Stat. 1506.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5502 ..... | 34 U.S.C. 651. | R.S. 1603. |
| | 34 U.S.C. 629. | 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

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

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.

### § 5503. 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; Pub. L. 102–190, div. A, title XI, § 1131(9), Dec. 5, 1991, 105 Stat. 1506.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 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

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

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.

### [§§ 5504, 5505. Repealed. Pub. L. 96–513, title III, § 314, Dec. 12, 1980, 94 Stat. 2892]

Section 5504, acts Aug. 10, 1956, ch. 1041, 70A Stat. 314; Oct. 13, 1964, Pub. L. 88–647, title III, § 301(13), 78 Stat. 1072; Sept. 19, 1978, Pub. L. 95–377, § 5, 92 Stat. 721, related to maintenance of lineal lists of officers in line of Navy.

Section 5505, acts Aug. 10, 1956, ch. 1041, 70A Stat. 316; June 30, 1960, Pub. L. 86–559, § 1(40), 74 Stat. 273; Sept. 7, 1962, Pub. L. 87–649, § 14c(25), 76 Stat. 501, related to changes of position on lineal list of reserve officers of Naval Reserve and Marine Corps Reserve.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§ 5506. Repealed. Pub. L. 103–337, div. A, title XVI, § 1673(d)(1), Oct. 5, 1994, 108 Stat. 3016]

Section, added Pub. L. 85–861, § 1(114)(A), Sept. 2, 1958, 72 Stat. 1492, and amended Pub. L. 96–513, title V, § 503(26), Dec. 12, 1980, 94 Stat. 2913, related to ranking of officers in active status in Naval Reserve and Marine Corps Reserve.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

### [§ 5507. Repealed. Pub. L. 87–649, § 14c(26), Sept. 7, 1962, 76 Stat. 501]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 316, related to pay and allowances of rear admirals. See section 202 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

### § 5508. 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; 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.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 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 because 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

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 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 537—ENLISTMENTS

Sec.
[5531 to 5539. Repealed.]
5540. Expiration: rights of member.

AMENDMENTS

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''.

### [§§ 5531 to 5535. Repealed. Pub. L. 90–235, § 2(a)(3), (b), Jan. 2, 1968, 81 Stat. 756]

Section 5531, act Aug. 10, 1956, ch. 1041, 70A Stat. 318, provided for recruiting campaigns to obtain enlistments in the Regular Navy and the Regular Marine Corps.

Section 5532, act Aug. 10, 1956, ch. 1041, 70A Stat. 318, set forth classes of persons prohibited from enlisting in the naval service.

Section 5533, act Aug. 10, 1956, ch. 1041, 70A Stat. 318, provided for enlistment of minors in naval service.

Section 5534, act Aug. 10, 1956, ch. 1041, 70A Stat. 318, set forth term of enlistments in Regular Navy or Regular Marine Corps and provided that Secretary of Navy could prescribe grades or ratings in which such enlistments could be made.

Section 5535, act Aug. 10, 1956, ch. 1041, 70A Stat. 319, required evidence of age for enlistment of minors in Regular Navy as seamen, seamen apprentices or seamen recruits.

### [§ 5536. Repealed. Pub. L. 85–861, § 36B(13), Sept. 2, 1958, 72 Stat. 1571]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 319, related to extension of service by reason of time lost through misconduct or unauthorized absence. See section 972(a) of this title.

### [§§ 5537 to 5539. Repealed. Pub. L. 90–235, § 2(a)(3), Jan. 2, 1968, 81 Stat. 756]

Section 5537, act Aug. 10, 1956, ch. 1041, 70A Stat. 319, provided for extension of naval service during disability incident to service.

Section 5538, act Aug. 10, 1956, ch. 1041, 70A Stat. 319, provided for extension of enlistments in Regular Navy or Regular Marine Corps during war or national emergency.

Section 5539, acts Aug. 10, 1956, ch. 1041, 70A Stat. 320; Sept. 2, 1958, Pub. L. 85–861, § 1(116), 72 Stat. 1493; Sept. 7, 1962, Pub. L. 87–649, § 14c(27), 76 Stat. 501, provided for voluntary extension or re-extension of enlistments in Regular Navy or Regular Marine Corps.

### § 5540. 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

(2) except in time of war is entitled to an increase in basic pay of 25 percent.

(c) The substance of this section shall be included in the enlistment contract of each person enlisting in the naval service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 320.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5540 ..... | 34 U.S.C. 201. | R.S. 1422; Mar. 3, 1875, ch. 155, 18 Stat. 484. |
| | 34 U.S.C. 201a. | Aug. 18, 1941, ch. 364, § 4, 55 Stat. 630. |
| | 34 U.S.C. 201b. | Dec. 13, 1941, ch. 570, § 2, 55 Stat. 799. |

In subsection (a) the words ''the senior officer present afloat'' are substituted for the words ''the commanding officer of any fleet, squadron, or vessel acting singly'' to modernize the terminology. At the time of the enactment of the Revised Statutes the word ''squadron'' meant an organization of any number of vessels more than one, so that all cases were covered by R.S. 1422. The concept of ''senior officer present afloat'', today, covers as nearly as possible the current equivalent of the concept in the original section. The words ''in foreign waters'' are inserted to conform to the interpretation of the Supreme Court in *Wilkes* v. *Dinsman*, 7 How. 89 (1849). The words ''on service'' are omitted, as they have no current ascertainable meaning. The words ''by Government or other transportation'' are substituted for the words ''in some public or other vessel'', since this provision is interpreted as directing transportation by either ship or aircraft. The words ''to the United States'' are substituted for the words ''to an Atlantic or to a Pacific port of the United States, as their enlistment may have occurred on either the Atlantic or Pacific coast, of the United States'' because aircraft now land at inland airports as well as coastal airports and the duty to return an enlisted member to the United States under this provision is considered complete upon the member's arrival in the United States. The extensive transportation system in the United States presently obviates the necessity of returning a member to a particular area. Furthermore, under 37 U.S.C. 253, the Government bears the cost of transporting the discharged member to his home or to the place from which he was called to active duty. The words ''enlisted member of the naval service'' are substituted for the words ''all petty officers and persons of inferior ratings'' in accordance with present terminology. Members of the Marine Corps are included because of interpretations of the Comptroller General, in construing the language of the statute. (14 Comp. Gen. 807, 808, May 1, 1935.) The reference to persons enlisted without the limits of the United States is omitted as unnecessary, since return to the United States is optional with the member and the basic rule applies irrespective of place of enlistment. The language requiring that persons who are detained or sent home be subject to the laws and regulations for the Government of the Navy is omitted as unnecessary in view of the Uniform Code of Military Justice. The provision referring to reentry to serve until the vessel returns to the United States is omitted because no law authorizes entry or reentry into the service for this restricted purpose.

In subsection (b) the words ''an increase in basic pay of 25 percent'' are substituted for the words ''an addition of one-fourth of their former pay'' in conformity with the Career Compensation Act of 1949. 34 U.S.C. 201b permanently suspended the detention pay increase in time of war and this effect is expressed in subsection (b)(2) by the words ''except in time of war''. 34 U.S.C. 201a, declaring that the pay addition authorized by this section does not apply to enlistments extended under other provisions of law, is omitted as unnecessary, since the increased pay provision is specifically limited to detentions under this section.

In subsection (c) the term ''enlistment contract'' is substituted for the term ''shipping-articles'' to conform to present terminology.

## CHAPTER 539—ORIGINAL APPOINTMENTS

Sec.
[5571 to 5581. Repealed.]
5582. Regular Navy: transfers, line and staff corps.
[5583, 5584. Repealed.]
5585. Regular Marine Corps: order of filling vacancies in grade of second lieutenant.
[5586. Repealed.]
5587. Regular Navy: officers designated for engineering duty, aeronautical engineering duty, and special duty.
5587a. Regular Marine Corps: judge advocates.
[5588. Repealed.]
5589. Regular Navy and Regular Marine Corps: officers designated for limited duty.
[5590 to 5595. Repealed.]
5596. Navy and Marine Corps: temporary appointments of officers designated for limited duty.
[5597 to 5601. Repealed.]

AMENDMENTS

1994—Pub. L. 103–337, div. A, title XVI, § 1673(b)(2), Oct. 5, 1994, 108 Stat. 3016, struck out item 5600 ''Naval Reserve and Marine Corps Reserve: service credit upon original appointment''.

1991—Pub. L. 102–190, div. A, title XI, § 1113(d)(2)(B), Dec. 5, 1991, 105 Stat. 1502, struck out ''warrant officers and'' before ''officers designated'' in item 5596.

1981—Pub. L. 97–22, § 10(b)(7), July 10, 1981, 95 Stat. 137, struck out item 5573a ''Regular Navy and Regular Marine Corps: from reserve and temporary officers'' and in item 5596 substituted ''Navy and Marine Corps: temporary appointments of warrant officers and officers designated for limited duty'' for ''Navy and Marine Corps: temporary appointments''.

1980—Pub. L. 96–513, title V, § 503(28), Dec. 12, 1980, 94 Stat. 2913, struck out items 5571 ''Regular Navy and Regular Marine Corps: citizenship of officers'', 5572 ''Regular Navy and Regular Marine Corps: appointing power'' 5573 ''Regular Navy and Regular Marine Crops: from graduates of the Naval Academy'', 5574 ''Regular Navy: Medical Corps'', 5575 ''Regular Navy: Supply Corps,'' 5576 ''Regular Navy: Chaplain Corps'', 5577 ''Regular Navy: Civil Engineer Corps'', 5578 ''Regular Navy: Dental Corps'', 5578a ''Regular Navy: Judge Advocate General's Corps'', 5579 ''Regular Navy: Medical Service Corps'', 5580 ''Regular Navy: Nurse Corps'', 5581 ''Naval Reserve: Medical Corps, Dental Corps, Medical Service Corps: women'', 5583 ''Regular Marine Corps: from non-commissioned officers'', 5584 ''Regular Marine Corps: from former officers'', 5586 ''Regular Navy and Regular Marine Corps: from warrant officers and enlisted members'', 5590 ''Regular Navy and Regular Marine Corps: women'', 5591 ''Regular Navy: Supply Corps: maximum number of ensigns appointed annually'', 5592 ''Regular Navy: Civil Engineer Corps: maximum number of ensigns appointed annually'', 5593 ''Regular Navy: Medical Service Corps; maximum number of ensigns appointed annually'', 5594 ''Regular Navy: Nurse Corps: maximum number of ensigns appointed annually'', 5595 ''Regular Marine Corps: restriction on appointments of former midshipmen and cadets'', 5597 ''Navy and Marine Corps: temporary appointments in time of war or national emergency'', 5598 ''Naval Reserve and Marine Corps Reserve: temporary appointments in time of war or national emergency'', 5599 ''Medical Corps: acting appointments for temporary service'', and 5601 ''Naval Reserve: Nurse Corps: men''.

1967—Pub. L. 90–179, § 5(5), Dec. 8, 1967, 81 Stat. 548, added items 5578a and 5587a.

1961—Pub. L. 87–123, § 5(9), Aug. 3, 1961, 75 Stat. 265, struck out item 5588 ''Regular Marine Corps: officers designated for supply duty''.

1958—Pub. L. 85–861, § 1(118)(B), (121)(B), Sept. 2, 1958, 72 Stat. 1493, 1495, added items 5573a, 5600, and 5601.

### [§§ 5571, 5572. Repealed. Pub. L. 96–513, title III, § 321, Dec. 12, 1980, 94 Stat. 2892]

Section 5571, act Aug. 10, 1956, ch. 1041, 70A Stat. 321, prescribed a citizenship requirement for appointment

as an officer in the Regular Navy or the Regular Marine Corps. See section 532 of this title.

Section 5572, acts Aug. 10, 1956, ch. 1041, 70A Stat. 321; Sept. 2, 1958, Pub. L. 85–861, §1(117), 72 Stat. 1493, required that each appointment to the active list of the Navy or to the active list of the Marine Corps be made by the President, by and with the advice and consent of the Senate. See section 531 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§ 5573. Repealed. Pub. L. 96–513, title III, § 322, Dec. 12, 1980, 94 Stat. 2892]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 321, authorized appointment of graduates of the Naval Academy to the Regular Navy and the Regular Marine Corps.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§§ 5573a to 5580. Repealed. Pub. L. 96–513, title III, § 321, Dec. 12, 1980, 94 Stat. 2892]

Section 5573a, added Pub. L. 85–861, §1(118)(A), Sept. 2, 1958, 72 Stat. 1493, authorized appointments to the active list of the Navy in permanent grades not above lieutenant and to the active list of the Marine Corps in permanent grades not above captain from officers of the Naval Reserve or the Marine Corps Reserve and from officers of the Regular Navy or the Regular Marine Corps not holding permanent commissioned appointments therein.

Section 5574, acts Aug. 10, 1956, ch. 1041, 70A Stat. 321; Sept. 2, 1958, Pub. L. 85–861, §1(119), 72 Stat. 1493, prescribed requirements for original appointments to the active list of the Navy in the Medical Corps. See section 532 of this title.

Section 5575, act Aug. 10, 1956, ch. 1041, 70A Stat. 322, prescribed requirements for original appointments to the active list of the Navy in the Supply Corps. See section 532 of this title.

Section 5576, act Aug. 10, 1956, ch. 1041, 70A Stat. 322, prescribed requirements for original appointments to the active list of the Navy in the Chaplain Corps. See section 532 of this title.

Section 5577, act Aug. 10, 1956, ch. 1041, 70A Stat. 322, prescribed requirements for original appointments to the active list of the Navy in the Civil Engineer Corps. See section 532 of this title.

Section 5578, acts Aug. 10, 1956, ch. 1041, 70A Stat 322; Sept. 2, 1958, Pub. L. 85–861, §1(120), 72 Stat. 1494, prescribed requirements for original appointments to the active list of the Navy in the Dental Corps. See section 532 of this title.

Section 5578a, added Pub. L. 90–179, §5(1), Dec. 8, 1967, 81 Stat. 547, prescribed requirements for original appointments to the active list of the Navy in the Judge Advocate General's Corps. See section 532 of this title.

Section 5579, act Aug. 10, 1956, ch. 1041, 70A Stat. 323, prescribed requirements for original appointments to the active list of the Navy in the Medical Service Corps. See section 532 of this title.

Section 5580, acts Aug. 10, 1956, ch 1041, 70A Stat. 323; Sept. 30, 1966, Pub. L. 89–609, §1(7)–(9), 80 Stat. 853, prescribed requirements for original appointments to the active list of the Navy in the Nurse Corps. See section 532 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§ 5581. Repealed. Pub. L. 96–513, title III, § 373(c), Dec. 12, 1980, 94 Stat. 2903]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 323; Dec. 8, 1967, Pub. L. 90–179, §12, 81 Stat. 549, related to the appointment of women in the Naval Reserve to the Medical Corps, the Dental Corps, and the Medical Services Corps.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### § 5582. Regular Navy: transfers, line and staff corps

(a) A regular officer of the Navy in a staff corps in a grade not above lieutenant commander may be appointed in the line of the Navy to the same grade.

(b) A regular officer in the line of the Navy in a grade not above lieutenant commander may be appointed to the same grade in a staff corps under regulations prescribed by the Secretary of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 324; Pub. L. 96–513, title III, §373(d), Dec. 12, 1980, 94 Stat. 2903.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5582(a) ..... | 34 U.S.C. 14 (less statement of appointing authority). | July 22, 1935, ch. 402, §7 (less statement of appointing authority), 49 Stat. 490. |
| 5582(b) ..... | 34 U.S.C. 13 (less statement of appointing authority). | July 22, 1935, ch. 402, §6 (less statement of appointing authority), 49 Stat. 490. |

The words ''active list'' are inserted so that this section will apply only to officers of the Regular Navy holding permanent appointments in grades above commissioned warrant officer, as this was the intent of the source statute. The words ''same grade'' are substituted for the words ''corresponding rank and grade'' in subsection (a) and for the words ''corresponding grade'' in subsection (b), since, under §405 of the Officer Personnel Act of 1947 (34 U.S.C. 10a), the grades in the staff corps are the same as those in the line. The words ''transfer and'' and ''transferred and'' are omitted as surplusage.

In subsection (a) the words ''and precedence in the line'' are omitted as surplusage.

In subsection (b) reference to the Construction Corps is omitted because that corps was abolished by the Act of June 25, 1940, ch. 420, §1, 54 Stat. 528.

The word ''male'' is inserted in both subsections to limit their application to men. Authority to appoint women is covered in §5590 of this title.

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–513 substituted ''A regular officer'' for ''Any male officer on the active list'' and ''in the line'' for ''to the active list in the line'' and deleted provision assigning an officer so appointed the lineal position he would have held had he originally been appointed in and had he remained in the line and provision that such an officer was to be considered an additional number in each grade in which he served.

Subsec. (b). Pub. L. 96–513 substituted ''A regular officer'' for ''Any male officer on the active list'' and ''the same grade in a staff corps under regulations prescribed by the Secretary of Defense'' for ''the active list of the Navy in the Supply Corps or the Civil Engineer Corps, in the same grade, without regard to his age.''

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.

### [§§ 5583, 5584. Repealed. Pub. L. 96–513, title III, § 321, Dec. 12, 1980, 94 Stat. 2892]

Section 5583, act Aug. 10, 1956, ch. 1041, 70A Stat. 324, prescribed requirements for original appointments to the active list of the Marine Corps from noncommissioned officers of the Regular Marine Corps. See section 532 of this title.

Section 5584, act Aug. 10, 1956, ch. 1041, 70A Stat. 324, prescribed requirements for original appointments to the active list of the Marine Corps from former officers of the Marine Corps. See section 532 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### § 5585. 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; Pub. L. 96–513, title V, § 503(29), Dec. 12, 1980, 94 Stat. 2913.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 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.

AMENDMENTS

1980—Pub. L. 96–513 substituted ''active-duty list'' for ''active list''.

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.

### [§ 5586. Repealed. Pub. L. 96–513, title III, § 321, Dec. 12, 1980, 94 Stat. 2892]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 324, prescribed requirements for original appointments to the active list of the Navy in the line or in any staff corps, except the Medical Service Corps and the Nurse Corps, in grades not above lieutenant and to the active list of the Marine Corps in grades not above captain from warrant officers and enlisted members of the Regular Navy and Regular Marine Corps. See section 532 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### § 5587. Regular Navy: officers designated for engineering duty, aeronautical engineering duty, and special duty

(a) Persons may be originally appointed in the line of the Navy as regular officers designated for engineering duty, aeronautical engineering duty, or special duty.

(b) With the approval of the Secretary, a regular officer in the line of the Navy may, upon his application, be designated for engineering duty, aeronautical engineering duty, or special duty.

(c) The types of engineering duty for which officers may be designated include ship engineering and ordnance engineering. The types of aeronautical engineering duty for which officers may be designated include aeronautical engineering and aviation maintenance. The types of special duty for which officers may be designated include communications, law, naval intelligence, photography, public affairs, psychology, geophysics, cryptography, and hydrography.

(d) Officers designated for engineering duty, aeronautical engineering duty, or special duty shall perform sea or shore duty appropriate to their special qualifications but may not succeed to command except on shore and then only as authorized by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 325; 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.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5587 ..... | 34 U.S.C. 77 (less statement of appointing authority). | Aug. 7, 1947, ch. 512, § 408 (less statement of appointing authority), 61 Stat. 873. |
| | 34 U.S.C. 71, 73. | Aug. 29, 1916, ch. 417, 39 Stat. 580 (words preceding 3d proviso of 1st par. under ''Officers for Engineering Duty Only''); May 11, 1928, ch. 522, 45 Stat. 498; Aug. 7, 1947, ch. 512, § 402(a), (c), 61 Stat. 870. |
| | 34 U.S.C. 78 (less (b)). | Aug. 7, 1947, ch. 512, § 403 (less (b)), 61 Stat. 870. |
| | 34 U.S.C. 211b (less (b)). | Aug. 7, 1947, ch. 512, § 401 (less (b)), 61 Stat. 869. |

In subsection (a) the word ''annually'' and the words ''and regularly commission'' are omitted as surplusage. The word ''male'' is inserted in subsection (a) to limit the application of the appointing authority in this subsection to men. Authority to appoint women is covered in § 5590 of this title.

In subsection (b) the words ''on the active list'' are inserted in order to exclude reserve and temporary officers, which is the intention of Congress determined from the use of the words ''additional numbers in grade'' and ''percentage of officers on the active list'' which apply only to regular officers holding permanent appointments. In the same subsection and in subsections (c) and (d) the provisions of the law that these officers are assigned to a certain duty and then ''described and known as officers designated'' for that duty have been written simply as providing that these offi-

cers may be ''designated'' for that duty. This is done as there is no apparent reason for any distinction between these officers and those appointed under subsection (a). In subsection (c) the words ''specialized duties in the fields of'' are omitted as surplusage.

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–513, § 324(a), substituted provision allowing the appointment of ''persons'' in the line of the Navy as regular officers for provision allowing the appointment of males only to the active list in the line of the Navy as officers, struck out provision specifying the rank designation of appointees, and struck out provision limiting the number of appointments under subsec. (a) to the number of vacancies that the Secretary of the Navy estimated would occur in a particular fiscal year in the grades and designations concerned.

Subsec. (b). Pub. L. 96–513, § 324(b), substituted ''a regular officer'' for ''any officer on the active list''.

Subsec. (c). Pub. L. 96–513, § 324(c), substituted ''public affairs, psychology, geophysics, cryptography'' for ''public information, psychology''.

Subsec. (d). Pub. L. 96–513, § 324(d), struck out ''are additional numbers in grade. They'' after ''special duty''.

1968—Subsec. (c). Pub. L. 90–386 enumerated the types of engineering duty and aeronautical engineering duty for which officers may be designated.

1967—Subsec. (c). Pub. L. 90–179 struck out ''law,'' after ''communications,''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment of 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.

### § 5587a. 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; amended Pub. L. 96–513, title V, § 503(30), Dec. 12, 1980, 94 Stat. 2913.)

AMENDMENTS

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.

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.

### [§ 5588. Repealed. Pub. L. 87–123, § 5(8), Aug. 3, 1961, 75 Stat. 265]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 326, related to designation of Marine Corps officers for supply duty.

### § 5589. 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 5150(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 5596 of this title; and
(D) is serving in the grade of lieutenant commander or commander, or in the grade of major or lieutenant colonel, under a temporary appointment under subsection (d) of section 5596 of this title.

(d) To be eligible for an appointment under this section a member must have the qualifications specified in section 532(a) of this title and have completed at least 10 years of active naval service, excluding active duty for training in a reserve component.

(e) Each officer appointed under this section is known as an officer designated for limited duty. He may not suffer any reduction in the pay and allowances to which he was entitled at the time of his appointment because of his former permanent status.

(f) Any officer designated for limited duty, upon his application and upon determination by the Secretary of the Navy that he is qualified, may—

(1) if he is in the line of the Navy, be designated for engineering duty, aeronautical engineering duty, or special duty, or be assigned to unrestricted performance of duty;
(2) if he is in a staff corps of the Navy, be assigned to unrestricted performance of duty in that corps; or
(3) if he is in the Marine Corps, be assigned to unrestricted performance of duty.

When an officer is so designated or assigned, his status as an officer designated for limited duty terminates.

(g) The Secretary shall prescribe regulations for the appointment, designation, and assignment of officers under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 326; Pub. L. 87–123, § 5(10), Aug. 3, 1961, 75 Stat. 265; Pub. L. 96–513, title III, § 325, Dec. 12, 1980, 94 Stat. 2893; Pub. L. 99–433, title V, § 514(c)(3), Oct. 1, 1986, 100 Stat. 1055; Pub. L. 103–337, div. A, title V, § 502, Oct. 5, 1994, 108 Stat. 2748.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5589 ..... | 34 U.S.C. 211c ((a) (less statement of appointing authority), and less (e)–(h)). | Aug. 7, 1947, ch. 512, § 404 ((a) (less statement of appointing authority), and less (e)–(h)), 61 Stat. 870; Aug. 5, 1949, ch. 402, § 1(f), 63 Stat. 568. |

In subsections (a) and (b) the authority to make appointments under this section is confined to appointments in the grades of ensign and second lieutenant, since the authority in the source statute to make appointments in higher grades was limited and has been completely executed. The words ''commissioned warrant officers'' are omitted as surplusage, since the term ''warrant officers'' includes commissioned warrant officers.

The word ''male'' is inserted to limit the application of the section to men. Authority to appoint women is covered in § 5590 of this title.

AMENDMENTS

1994—Subsecs. (c) to (g). Pub. L. 103–337 added subsec. (c) and redesignated former subsecs. (c) to (f) as (d) to (g), respectively.

1986—Subsec. (a). Pub. L. 99–433 substituted ''section 5150(b)'' for ''section 5155(b)''.

1980—Subsec. (a). Pub. L. 96–513, § 325(1), substituted ''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 5155(b) of this title and designated by the Secretary for the purposes of this section may be made from'' for ''to the active list of the Navy in the grade of ensign in the line, in the Supply Corps, and in the Civil Engineer Corps may be made from male''.

Subsec. (b). Pub. L. 96–513, § 325(2), substituted ''as regular officers of the Marine Corps in a grade below major may be made from'' for ''to the active list of the Marine Corps in the grade of second lieutenant may be made from male''.

Subsec. (c). Pub. L. 96–513, § 325(3), inserted ''the qualifications specified in section 532(a) of this title and have''.

1961—Subsec. (e)(3). Pub. L. 87–123 struck out ''be designated for supply duty or'' before ''be assigned to''.

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 relating to Regular Navy or Regular Marine Corps officers designated as limited-duty officers under this section prior to September 15, 1981, see section 616 of Pub. L. 96–513, set out as a note under section 611 of this title.

### [§ 5590. Repealed. Pub. L. 96–513, title III, § 373(e), Dec. 12, 1980, 94 Stat. 2903]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 327, authorized appointments of women to the Regular Navy and Regular Marine Corps.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§§ 5591 to 5595. Repealed. Pub. L. 96–513, title III, § 323, Dec. 12, 1980, 94 Stat. 2893]

Section 5591, act Aug. 10, 1956, ch. 1041, 70A Stat. 327, prescribed maximum number of appointments that could be made annually to active list of Navy in Supply Corps in grade of ensign.

Section 5592, act Aug. 10, 1956, ch. 1041, 70A Stat. 327, prescribed maximum number of appointments that could be made annually to active list of Navy in Civil Engineer Corps in grade of ensign.

Section 5593, act Aug. 10, 1956, ch. 1041, 70A Stat. 328, prescribed maximum number of appointments that could be made annually to active list of Navy in Medical Service Corps in grade of ensign.

Section 5594, act Aug. 10, 1956, ch. 1041, 70A Stat. 328, prescribed maximum number of appointments that could be made annually to active list of Navy in Nurse Corps in grade of ensign.

Section 5595, act Aug. 10, 1956, ch. 1041, 70A Stat. 328, restricted appointment of a former midshipman at Naval Academy or a former cadet at Military Academy to a commissioned grade in Regular Marine Corps until after graduation of class of which he was a member.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### § 5596. Navy and Marine Corps: temporary appointments of officers designated for limited duty

(a) Under such regulations as he may prescribe, the Secretary of the Navy may make temporary appointments of officers designated for limited duty in the Regular Navy in grades not above lieutenant and in the Regular Marine Corps in grades not above captain from sources authorized under section 5589 of this title. Such appointments shall be made by warrant if in the grade of warrant officer, W–1, and by commission if in a higher grade.

(b) Temporary appointments under this section do not change the permanent, probationary, or acting status of members so appointed, prejudice them in regard to promotion or appointment, or abridge their rights or benefits. A person receiving a temporary appointment under this section may not suffer any reduction in the pay and allowances to which he was entitled because of his permanent status at the time of his temporary appointment, or any reduction in the pay and allowances to which he was entitled under a prior temporary appointment in a lower grade.

(c) The following members of the naval service are ineligible for temporary appointments under this section:

(1) Retired members.

(2) Members of the Navy Reserve and the Marine Corps Reserve ordered to active duty for training.

(3) Members of the Navy Reserve and the Marine Corps Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Navy Reserve or the Marine Corps Reserve.

(4) Members of the Navy Reserve and the Marine Corps Reserve ordered to temporary active duty to prosecute special work.

(d) Officers designated for limited duty under subsection (a) may be temporarily appointed by the Secretary of the Navy in a higher grade not above commander in the Regular Navy or lieutenant colonel in the Regular Marine Corps under such regulations as the Secretary may prescribe. Regulations prescribed under this section shall to the greatest extent practicable conform to the procedures prescribed in chapter 36 of this title for selection for promotion and promotion to higher permanent grades.

(e) The Secretary of the Navy may terminate any appointment made under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 328; Pub. L. 96–513, title III, § 326, Dec. 12, 1980, 94 Stat. 2894; Pub. L. 102–190, div. A, title XI, § 1113(c), (d)(2)(A), Dec. 5, 1991, 105 Stat. 1502; Pub. L. 109–163, div. A, title V, § 515(b)(1)(G), Jan. 6, 2006, 119 Stat. 3233.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5596(a) ..... | 34 U.S.C. 3d. | Aug. 7, 1947, ch. 512, § 301, 61 Stat. 829; June 30, 1951, ch. 196, § 1(b), 65 Stat. 108. |
| 5596(b) ..... | 34 U.S.C. 3c(c). | Aug. 7, 1947, ch. 512, § 302(c), 61 Stat. 830. |
| 5596(c) ..... | 34 U.S.C. 3c(h) (less 14th through 53d words). | Aug. 7, 1947, ch. 512, § 302(h) (less 14th through 53d words), 61 Stat. 830. |
| 5596(d) ..... | 34 U.S.C. 135a(a) (last sentence as applicable to temporary appointments). | May 29, 1954, ch. 249, § 3(a) (3d sentence as applicable to temporary appointments), 68 Stat. 158. |
| | 34 U.S.C. 135c(a) (last sentence as applicable to temporary appointments). | May 29, 1954, ch. 249, § 5(a) (last sentence as applicable to temporary appointments), 68 Stat. 159. |
| | 34 U.S.C. 330 (last sentence as applicable to temporary promotions). | May 29, 1954, ch. 249, § 7 (last sentence as applicable to temporary promotions), 68 Stat. 159. |
| 5596(e) ..... | 34 U.S.C. 3c(g). | Aug. 7, 1947, ch. 512, § 302(g), 61 Stat. 830. |
| | 34 U.S.C. 626–1(a). | Aug. 7, 1947, ch. 512, § 314(a), 61 Stat.863. |
| 5596(f) ..... | 34 U.S.C. 3c(e). | Aug. 7, 1947, ch. 512, § 302(e), 61 Stat. 830. |
| | 34 U.S.C. 135a(b). | May 29, 1954, ch. 249, § 3(b), 68 Stat. 158. |
| 5596(g) ..... | 34 U.S.C. 105j. | June 12, 1948, ch. 449, § 215, 62 Stat. 370. |
| | 34 U.S.C. 625h(a). | June 12, 1948, ch. 449, § 213(a), 62 Stat. 369. |
| | 34 U.S.C. 3c(a) (as applicable to meaning of word ''officers''). | Aug. 7, 1947, ch. 512, § 302(a) (as applicable to meaning of word ''officers''), 61 Stat. 829. |
| | 34 U.S.C. 3c(h) (14th through 53d words). | Aug. 7, 1947, ch. 512, § 302(h) (14th through 53d words), 61 Stat. 830. |
| 5596(h) .... | 34 U.S.C. 306h (as applicable to temporary appointments under 34 U.S.C. 3c(c)). | Aug. 7, 1947, ch. 512, § 316(d) (as applicable to temporary appointments under § 302(c)), 61 Stat. 867. |

Since appointments under this section are either made, or not made, in the discretion of the President, the proviso of 34 U.S.C. 3d, authorizing the President to suspend the operation of this section with respect to lieutenants (junior grade) and lieutenants in the Navy and first lieutenants and captains in the Marine Corps, is omitted from subsection (a) as unnecessary.

In subsections (b) and (c) the words ''and above'' have been executed by naming the grades they imply, to wit, chief petty officers and master and technical sergeants. In the statement of the grades to which appointments may be made, the words ''including the grades of warrant officer and commissioned warrant officer'' are omitted as surplusage. In the list of persons who may be appointed, reference to commissioned warrant officers is omitted because they are included within the term ''warrant officers''.

In subsection (f) the words ''do not change the * * * status'' are substituted for the words ''appointments * * * shall not be vacated.'' The word ''advancement'', the words ''in accordance with laws relating to the Regular Navy or Marine Corps'', and the words ''privileges and gratuities'' are omitted as surplusage. The first proviso is omitted as unnecessary in view of the Career Compensation Act of 1949.

In subsection (g)(2) that portion of 34 U.S.C. 3c(a) which excludes officers on the retired list from the definition of the word ''officers'' is treated as precluding the appointment of such officers under this section. There is no express statement of law making retired enlisted members ineligible for such appointments; however, the context indicates this to be the intent of Congress. In subsection (g)(3) that portion of 34 U.S.C. 3c(a) which excludes officers on active duty for training from the definition of the word ''officers'' is treated as precluding the appointment of persons on training duty under this section. While there is no statement of law making enlisted members of the Naval Reserve and the Marine Corps Reserve on active duty for training ineligible for appointments under this section, the context indicates this to be the intent of Congress and clause (3) is thus written. The exception as to the Fleet Reserve is omitted as unnecessary inasmuch as, pursuant to the Armed Forces Reserve Act of 1952, the Fleet Reserve is no longer a part of the Naval Reserve but is a separate and distinct component of the Navy.

AMENDMENTS

2006—Subsec. (c)(2) to (4). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve'' wherever appearing.

1991—Pub. L. 102–190, § 1113(d)(2)(A), struck out ''warrant officers and'' before ''officers designated'' in section catchline.

Subsec. (a). Pub. L. 102–190, § 1113(c)(1), reorganized subsec. (a), striking out par. (1) relating to warrant officer grades, and striking out par. (2) designation.

Subsec. (d). Pub. L. 102–190, § 1113(c)(2), substituted ''subsection (a)'' for ''subsection (a)(2)''.

1980—Subsec. (a). Pub. L. 96–513 substituted provisions authorizing the Secretary of the Navy to make 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 ''Presi-

dent'', 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 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.

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.

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.

### [§§ 5597 to 5599. Repealed. Pub. L. 96–513, title III, § 327, Dec. 12, 1980, 94 Stat. 2894]

Section 5597, acts Aug. 10, 1956, ch. 1041, 70A Stat. 330; Sept. 7, 1962, Pub. L. 87–649, §§ 5(a), 14c(28), 76 Stat. 493, 501; Sept. 28, 1971, Pub. L. 92–129, title VI, § 603(a), 85 Stat. 362, authorized temporary appointments in Navy and Marine Corps in times of war or national emergency. See section 603 of this title.

Section 5598, act Aug. 10, 1956, ch. 1041, 70A Stat. 331, authorized temporary appointments in Naval Reserve and Marine Corps Reserve in times of war or national emergency. See section 603 of this title.

Section 5599, act Aug. 10, 1956, ch. 1041, 70A Stat. 331, provided that the President alone could make appointments for temporary service in Medical Corps in grade of lieutenant (junior grade). See section 603 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§ 5600. Repealed. Pub. L. 104–106, div. A, title XV, § 1501(c)(26), Feb. 10, 1996, 110 Stat. 499]

Section, added Pub. L. 85–861, § 1(121)(A), Sept. 2, 1958, 72 Stat. 1494; amended Pub. L. 86–559, § 1(41), June 30, 1960, 74 Stat. 273; Pub. L. 90–179, § 5(4), Dec. 8, 1967, 81 Stat. 548; Pub. L. 96–513, title III, § 328, Dec. 12, 1980, 94 Stat. 2895; Pub. L. 97–22, § 6(c), July 10, 1981, 95 Stat. 130; Pub. L. 98–94, title X, § 1007(c)(4), Sept. 24, 1983, 97 Stat. 662; Pub. L. 100–180, div. A, title VII, § 714(c), Dec. 4, 1987, 101 Stat. 1113; Pub. L. 102–190, div. A, title XI, § 1131(8)(A), Dec. 5, 1991, 105 Stat. 1506; Pub. L. 103–160, div. A, title V, § 509(c), Nov. 30, 1993, 107 Stat. 1648, related to service credit upon original appointment as commissioned officer in Naval Reserve or Marine Corps Reserve. See section 12207 of this title.

EFFECTIVE DATE OF REPEAL

Section 1501(c)(26) of Pub. L. 104–106 provided that the repeal made by that section is effective on the effective date specified in section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

### [§ 5601. Repealed. Pub. L. 89–609, § 1(10), Sept. 30, 1966, 80 Stat. 853]

Section, added Pub. L. 85–861, § 1(121)(A), Sept. 2, 1958, 72 Stat. 1495, authorized appointment of men in the Naval Reserve in the Nurse Corps.

## [CHAPTER 541—REPEALED]

### [§§ 5651 to 5664. Repealed. Pub. L. 96–513, title III, § 332, Dec. 12, 1980, 94 Stat. 2897]

Section 5651, act Aug. 10, 1956, ch. 1041, 70A Stat. 332, related to eligibility of officers to be running mates.

Section 5652, acts Aug. 10, 1956, ch. 1041, 70A Stat. 332; Sept. 2, 1958, Pub. L. 85–861, § 1(122), 72 Stat. 1495, related, except as provided in sections 5652a, 5652b, 5652c, 5653, and 5654 of this title, to assignment of running mates from among eligible line officers to staff corps officers serving in grade of lieutenant (junior grade) on active list of Navy.

Section 5652a, added Pub. L. 85–861, § 1(123)(A), Sept. 2, 1958, 72 Stat. 1495, and amended Pub. L. 90–179, § 12, Dec. 8, 1967, 81 Stat. 549, related to assignment of running mates to officers appointed to active list of Navy in grade of lieutenant (junior grade) in Medical Corps, Judge Advocate General's Corps, or Dental Corps.

Section 5652b, added Pub. L. 85–861, § 1(123)(A), Sept. 2, 1958, 72 Stat. 1495, and amended Pub. L. 88–647, title III, § 301(14)(B), Oct. 13, 1964, 78 Stat. 1072, related to assignment of running mates to certain officers originally appointed as ensigns to active list of Navy and serving as staff corps officers at time of promotion to grade of lieutenant (junior grade).

Section 5652c, added Pub. L. 85–861, § 1(123)(A), Sept. 2, 1958, 72 Stat. 1496, related to assignment of running mates to officers appointed to active list of Navy in a staff corps under section 5573a of this title.

Section 5653, acts Aug. 10, 1056, ch. 1041, 70A Stat. 333; Sept. 2, 1958, Pub. L. 85–861, § 1(124), 72 Stat. 1496, related to assignment of running mates to officers originally appointed to active list of Navy in a staff corps in a grade of lieutenant or above.

Section 5654, act Aug. 10, 1956, ch. 1041, 70A Stat. 333, related to assignment of running mates to officers on active list in line of Navy transferred to a staff corps in grade of lieutenant (junior grade) or above.

Section 5655, act Aug. 10, 1956, ch. 1041, 70A Stat. 333, related to assignment of running mates to officers of Naval Reserve in a staff corps ordered to active duty and placed on a lineal list.

Section 5656, act Aug. 10, 1956, ch. 1041, 70A Stat. 334, related to reassignment of a running mate to a staff corps officer on active duty where originally assigned running mate was separated from active list, was released from active duty, or lost numbers.

Section 5657, act Aug. 10, 1956, ch. 1041, 70A Stat. 334, related to reassignment of a running mate to a staff corps officer on active duty where such staff corps officer was promoted after selection.

Section 5658, act Aug. 10, 1956, ch. 1041, 70A Stat. 334, related to reassignment of a running mate to a staff corps officer on active duty where running mate of staff corps officer was promoted to a higher grade without staff corps officer being so promoted.

Section 5659, act Aug. 10, 1956, ch. 1041, 70A Stat. 334, related to reassignment of a running mate to a staff corps officer where such staff corps officer was not restricted in performance of duty and was serving on active duty in grade of lieutenant (junior grade) or above and lost numbers in grade.

Section 5660, act Aug. 10, 1956, ch. 1041, 70A Stat. 335, related to reassignment of a running mate to a staff

corps officer on active duty where running mate originally assigned to such staff corps officer was advanced in numbers or in grade.

Section 5661, act Aug. 10, 1956, ch. 1041, 70A Stat. 335, related to reassignment of a running mate to a staff corps officer where staff corps officer was not restricted in performance of duty, was serving on active duty in grade of lieutenant (junior grade) or above, and was advanced in numbers in his grade.

Section 5662, acts Aug. 10, 1956, ch. 1041, 70A Stat. 335; Apr. 21, 1976, Pub. L. 94–273, § 2(3), 90 Stat. 375, authorized President to suspend any provisions of sections 5651 to 5661 of this title during times of war or national emergency or during certain other times when specified conditions were found to exist.

Section 5663, act Aug. 10, 1956, ch. 1041, 70A Stat. 335, excluded from application of sections 5651 to 5662 of this title certain women officers, women reserve officers, retired officers, and officers of Naval Reserve.

Section 5664, act Aug. 10, 1956, ch. 1041, 70A Stat. 336, related to assignment of running mates to women officers on active list of Navy appointed under section 5590 of this title in any staff corps.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§ 5665. Repealed. Pub. L. 103–337, div. A, title XVI, § 1629(b)(1), Oct. 5, 1994, 108 Stat. 2963]

Section, added Pub. L. 85–861, § 1(125)(A), Sept. 2, 1958, 72 Stat. 1496; amended Pub. L. 96–513, title III, § 332, Dec. 12, 1980, 94 Stat. 2897; Pub. L. 102–190, div. A, title XI, § 1131(8)(A), Dec. 5, 1991, 105 Stat. 1506, related to running mates for Naval Reserve and Marine Corps Reserve active status officers in permanent grades above chief warrant officer, W–5. See section 14306 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

### [§ 5666. Repealed. Pub. L. 96–513, title III, § 332, Dec. 12, 1980, 94 Stat. 2897]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 336, provided that appointments for limited duration would not be considered for purposes of the chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## [CHAPTER 543—REPEALED]

### [§§ 5701 to 5711. Repealed. Pub. L. 96–513, title III, § 333, Dec. 12, 1980, 94 Stat. 2897]

Section 5701, acts Aug. 10, 1956, ch. 1041, 70A Stat. 336; Feb. 26, 1970, Pub. L. 91–199, § 1, 84 Stat. 16, related to convening by Secretary of Navy at least annually of selection boards to recommend male officers in line of Navy for promotion and continuation on active list. See section 611 of this title.

Section 5702, acts Aug. 10, 1956, ch. 1041, 70A Stat. 337; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(5), 71 Stat. 381; Nov. 8, 1967, Pub. L. 90–130, § 1(18)(A)–(H), 81 Stat. 377; Dec. 8, 1967, Pub. L. 90–179, § 12, 81 Stat. 549, related to convening of selection boards to recommend staff corps officers, other than women officers appointed under former section 5590 of this title, for promotion and continuation on active list. See section 611 of this title.

Section 5703, acts Aug. 10, 1956, ch. 1041, 70A Stat. 338; Aug. 3, 1961, Pub. L. 87–123, § 5(11), 75 Stat. 265; Sept. 19, 1978, Pub. L. 95–377, § 10(a), 92 Stat. 721; Sept. 8, 1980, Pub. L. 96–343, § 10(d), 94 Stat. 1130, related to convening at least annually by Secretary of Navy of selection boards to recommend male officers of Marine Corps for promotion and for continuation on active list. See section 611 of this title.

Section 5704, acts Aug. 10, 1956, ch. 1041, 70A Stat. 339; Nov. 8, 1967, Pub. L. 90–130, § 1(18)(I)–(K), 81 Stat. 377, relating to convening by Secretary of Navy at least annually of selection boards to recommend women officers in line of Navy for promotion to grades of captain, commander, lieutenant commander, and lieutenant. See section 611 of this title.

Section 5705, act Aug. 10, 1956, ch. 1041, 70A Stat. 340, related to oath of selection board members. See section 613 of this title.

Section 5706, acts Aug. 10, 1956, ch. 1041, 70A Stat. 340; Aug. 3, 1961, Pub. L. 87–123, § 5(12), 75 Stat. 265, related to information furnished selection boards by Secretary of Navy. See section 615 of this title.

Section 5707, acts Aug. 10, 1956, ch. 1041, 70A Stat. 341; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(6), 71 Stat. 382; Aug. 3, 1961, Pub. L. 87–123, § 5(13), 75 Stat. 265; Nov. 8, 1967, Pub. L. 90–130, § 1(18)(L), 81 Stat. 377, related to officers to be recommended for promotion or continuation by selection boards. See section 616 of this title.

Section 5708, acts Aug. 10, 1956, ch. 1041, 70A Stat. 342; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(7), 71 Stat. 382; Dec. 8, 1967, Pub. L. 90–179, § 12, 81 Stat. 549, related to required certification of selection board reports. See section 617 of this title.

Section 5709, acts Aug. 10, 1956, ch. 1041, 70A Stat. 344; Aug. 3, 1961, Pub. L. 87–123, § 5(14), 75 Stat. 265, related to retention of rear admirals in Navy and major generals in Marine Corps on active list. See section 611 of this title.

Section 5710, act Aug. 10, 1956, ch. 1041, 70A Stat. 344, directed submission of selection board reports to either Secretary of Navy or President. See section 617 of this title.

Section 5711, acts Aug. 10, 1956, ch. 1041, 70A Stat. 345; Nov. 8, 1967, Pub. L. 90–130, § 1(18)(M), 81 Stat. 377; Apr. 21, 1976, Pub. L. 94–273, § 2(3), 90 Stat. 375, authorized suspension of specific provisions of sections 5701 to 5710 of this title under certain circumstances by President and excluded specific categories of officers from consideration by selection boards. See section 123(a), (b) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## CHAPTER 544—TEMPORARY APPOINTMENTS

Sec.
5721. Temporary promotions of certain Navy lieutenants.

### § 5721. Temporary promotions of certain Navy lieutenants

(a) PROMOTION AUTHORITY FOR CERTAIN OFFICERS WITH CRITICAL SKILLS.—An officer in the line of the Navy in the grade of lieutenant who—

(1) has a skill in which the Navy has a critical shortage of personnel (as determined by the Secretary of the Navy); and

(2) is serving in a position (as determined by the Secretary of the Navy) which (A) is designated to be held by a lieutenant commander, and (B) requires that an officer serving in such position have the skill possessed by such officer,

may be temporarily promoted to the grade of lieutenant commander under regulations to be prescribed by the Secretary of the Navy. Ap-

pointments under this section shall be made by the President, by and with the advice and consent of the Senate.

(b) STATUS OF OFFICERS APPOINTED.—(1) An appointment under this section does not change the position on the active-duty list or the permanent, probationary, or acting status of the officer so appointed, prejudice the officer in regard to other promotions or appointments, or abridge the rights or benefits of the officer.

(2) For the purposes of section 523 of this title, an officer holding an appointment under this section is considered as serving in the grade of lieutenant commander.

(c) BOARD RECOMMENDATION REQUIRED.—A temporary promotion under this section may be made only upon the recommendation of a board of officers convened by the Secretary of the Navy for the purpose of recommending officers for such promotions.

(d) ACCEPTANCE AND EFFECTIVE DATE OF APPOINTMENT.—Each appointment under this section, unless expressly declined, is, without formal acceptance, regarded as accepted on the date such appointment is made, and a member so appointed is entitled to the pay and allowances of the grade of lieutenant commander from the date the appointment is made.

(e) TERMINATION OF APPOINTMENT.—Unless sooner terminated, an appointment under this section terminates—

(1) on the date the officer who received the appointment is promoted to the permanent grade of lieutenant commander; or

(2) on the date the officer is detached from a position described in subsection (a)(2), unless the officer is on a promotion list to the permanent grade of lieutenant commander, in which case the appointment terminates on the date the officer is promoted to that grade.

(f) LIMITATION ON NUMBER OF ELIGIBLE POSITIONS.—An appointment under this section may only be made for service in a position designated by the Secretary of the Navy for purposes of this section. The number of positions so designated may not exceed 325.

(Added Pub. L. 96–513, title III, § 334, Dec. 12, 1980, 94 Stat. 2897; amended Pub. L. 98–94, title IV, § 403, Sept. 24, 1983, 97 Stat. 629; Pub. L. 98–525, title V, § 514, Oct. 19, 1984, 98 Stat. 2522; Pub. L. 99–661, div. A, title V, § 503, Nov. 14, 1986, 100 Stat. 3864; Pub. L. 100–180, div. A, title V, § 501(a), Dec. 4, 1987, 101 Stat. 1085; Pub. L. 101–189, div. A, title V, § 512(a), Nov. 29, 1989, 103 Stat. 1439; Pub. L. 102–484, div. A, title V, § 507, Oct. 23, 1992, 106 Stat. 2405; Pub. L. 103–160, div. A, title V, § 508(a), Nov. 30, 1993, 107 Stat. 1647; Pub. L. 104–106, div. A, title V, § 508(a), (b), (d), Feb. 10, 1996, 110 Stat. 296, 297; Pub. L. 104–201, div. A, title V, § 503, Sept. 23, 1996, 110 Stat. 2511; Pub. L. 107–314, div. A, title X, § 1041(a)(20), Dec. 2, 2002, 116 Stat. 2645.)

AMENDMENTS

2002—Subsec. (f). Pub. L. 107–314 struck out par. (1) designation and struck out par. (2) which read as follows: ''Whenever the Secretary makes a change to the positions designated under paragraph (1), the Secretary shall submit notice of the change in writing to Congress.''

1996—Subsec. (a). Pub. L. 104–201, § 503(a), (c), substituted ''Officers'' for ''Officer'' in heading and ''the President, by and with the advice and consent of the Senate'' for ''the President alone'' in concluding provisions.

Pub. L. 104–106, § 508(d)(1), inserted heading.

Subsecs. (b) to (e). Pub. L. 104–106, § 508(d)(2)–(5), inserted headings.

Subsec. (f). Pub. L. 104–106, § 508(b)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Pub. L. 104–106, § 508(a), substituted ''September 30, 1996'' for ''September 30, 1995''.

Subsec. (g). Pub. L. 104–201, § 503(b), struck out subsec. (g) which read as follows: ''TERMINATION OF APPOINTMENT AUTHORITY.—The authority to make appointments under this section terminates on September 30, 1996.''

Pub. L. 104–106, § 508(d)(6), inserted heading.

Pub. L. 104–106, § 508(b)(1), redesignated subsec. (f) as (g).

1993—Subsec. (f). Pub. L. 103–160 substituted ''September 30, 1995'' for ''September 30, 1993''.

1992—Subsec. (f). Pub. L. 102–484 substituted ''September 30, 1993'' for ''September 30, 1992''.

1989—Subsec. (f). Pub. L. 101–189 substituted ''September 30, 1992'' for ''September 30, 1989''.

1987—Subsec. (f). Pub. L. 100–180 substituted ''September 30, 1989'' for ''September 30, 1987''.

1986—Subsec. (f). Pub. L. 99–661 substituted ''September 30, 1987'' for ''September 30, 1986''.

1984—Subsec. (f). Pub. L. 98–525 substituted ''September 30, 1986'' for ''September 30, 1984''.

1983—Subsec. (f). Pub. L. 98–94 substituted ''September 30, 1984'' for ''September 30, 1983''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 508(e) of Pub. L. 104–106 provided that: ''Subsection (f) of section 5721 of title 10, United States Code, as added by subsection (b)(2), shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act [Feb. 10, 1996] and shall apply to any appointment under that section after the end of such period.''

EFFECTIVE DATE OF 1993 AMENDMENT

Section 508(b) of Pub. L. 103–160 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as of September 30, 1993.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 507 of Pub. L. 102–484 provided that the amendment made by that section is effective Sept. 29, 1992.

EFFECTIVE DATE

Section effective Sept. 15, 1981, but the authority to prescribe regulations under under this section effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

SAVINGS PROVISION

Section 512(b) of Pub. L. 101–189 provided that:

''(1) The Secretary of the Navy shall provide, in the case of an officer appointed to the grade of lieutenant commander on or after the date of the enactment of this Act [Nov. 29, 1989] under an appointment described in paragraph (2), that the date of rank of such officer under that appointment shall be the date of rank that would have applied to the appointment had the authority referred to in that paragraph not lapsed.

''(2) An appointment referred to in paragraph (1) is an appointment under 5721 of title 10, United States Code, that (as determined by the Secretary of the Navy) would have been made during the period beginning on October 1, 1989, and ending on the date of the enactment of this Act had the authority to make appointments under that section not lapsed during such period.''

Similar provisions were contained in the following prior authorization act:

Pub. L. 100–180, div. A, title V, § 501(b), Dec. 4, 1987, 101 Stat. 1085.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (c) to make certain temporary appointments to grade of lieutenant commander delegated to Secretary of Defense to perform, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, see Ex. Ord. No. 12396, §§ 1(d), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For provision that any officer who on September 15, 1981 holds a temporary appointment in the grade of lieutenant commander under former section 5787d of this title, shall on and after that date be considered to be serving in such grade as if the appointment had been made under this section, see section 617 of Pub. L. 96–513, set out as a note under section 611 of this title.

## [CHAPTER 545—REPEALED]

### [§§ 5751 to 5758. Repealed. Pub. L. 96–513, title III, § 333, Dec. 12, 1980, 94 Stat. 2897]

Section 5751, acts Aug. 10, 1956, ch. 1041, 70A Stat. 346; Aug. 3, 1961, Pub. L. 87–123, § 5(16), 75 Stat. 266, related to eligibility for consideration by a selection board for promotion of male officers in line of Navy and male officers in Marine Corps. See section 619 of this title.

Section 5752, acts Aug. 10, 1956, ch. 1041, 70A Stat. 347; Sept. 2, 1958, Pub. L. 85–861, § 1(126), 72 Stat. 1497; Nov. 8, 1967, Pub. L. 90–130, § 1(19)(A)–(C), 81 Stat. 378, related to eligibility for consideration by a selection board for promotion of women officers in line of Navy and women officers in Marine Corps. See section 619 of this title.

Section 5753, acts Aug. 10, 1956, ch. 1041, 70A Stat. 347; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(8), 71 Stat. 382; Nov. 7, 1967, Pub. L. 90–130, § 1(19)(D), 81 Stat. 378; Dec. 8, 1967, Pub. L. 90–179, § 12, 81 Stat. 549, related to eligibility of Navy staff corps officers for consideration for promotion by a selection board. See section 619 of this title.

Section 5754, act Aug. 10, 1956, ch. 1041, 70A Stat. 348, prescribed general conditions for eligibility for consideration by a selection board for promotion. See section 619 of this title.

Section 5755, act Aug. 10, 1956, ch. 1041, 70A Stat. 348, related to communications between a selection board and an officer eligible for consideration for promotion by such board. See section 614 of this title.

Section 5756, act Aug. 10, 1956, ch. 1041, 70A Stat. 348, directed Secretary of Navy to furnish appropriate selection board with number of male officers in line of Navy or of Marine Corps that could be recommended for promotion to next highest grade and prescribed a formula for arriving at such number. See section 622 of this title.

Section 5757, act Aug. 10, 1956, ch. 1041, 70A Stat. 348, directed Secretary of Navy to furnish appropriate selection board with number of male officers in line of Navy or of Marine Corps designated for limited duty that could be recommended for promotion to next highest grade and prescribed a formula for arriving at such number. See section 622 of this title.

Section 5758, act Aug. 10, 1956, ch. 1041, 70A Stat. 349, directed Secretary of Navy to furnish appropriate selection board with numbers of officers designated for engineering, aeronautical engineering, and special duty that could be recommended for promotion to grade of rear admiral and numbers of male officers designated for such duty that could be recommended for promotion to a grade below rear admiral and prescribed formulas for arriving at such numbers. See section 622 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

SELECTION BOARDS CONVENED BETWEEN JULY 10, 1981, AND SEPTEMBER 15, 1981; SERVICE IN GRADE REQUIREMENTS; REGULATIONS

Pub. L. 97–22, § 9, July 10, 1981, 95 Stat. 136, provided that for selection boards convened on or after July 10, 1981, and before Sept. 15, 1981, service in grade requirements shall be established under regulations prescribed by Secretary of the Navy for eligibility for consideration for promotion of female officers in the line of the Navy to grade of lieutenant commander and female officers in the Marine Corps to grade of major.

### [§ 5759. Repealed. Pub. L. 87–123, § 5(17), Aug. 3, 1961, 75 Stat. 266]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 349, required Secretary to furnish selection boards with number of Marine Corps officers designated for supply duty that could be recommended for promotion.

### [§§ 5760 to 5773. Repealed. Pub. L. 96–513, title III, § 333, Dec. 12, 1980, 94 Stat. 2897]

Section 5760, acts Aug. 10, 1056, ch. 1041, 70A Stat. 350; Nov. 8, 1967, Pub. L. 90–130, § 1(19)(E), (F), 81 Stat. 378, directed Secretary of Navy to furnish appropriate selection board with number of women officers in the line of Navy that could be recommended for promotion to grade of lieutenant, captain, commander, or lieutenant commander and number of women officers of Marine Corps that could be recommended for promotion to grade of captain, colonel, lieutenant colonel, or major. See section 622 of this title.

Section 5761, act Aug. 10, 1956, ch. 1041, 70A Stat. 350, directed Secretary of Navy to furnish appropriate selection board with number of officers in any staff corps that could be recommended for promotion to grade of rear admiral. See section 622 of this title.

Section 5762, acts Aug. 10, 1956, ch. 1041, 70A Stat. 351; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(9), 71 Stat. 383; Nov. 8, 1967, Pub. L. 90–130, § 1(19)(G), (H), 81 Stat. 378; Dec. 8, 1967, Pub. L. 90–179, § 6, 81 Stat. 548, directed Secretary of Navy to furnish appropriate selection boards with number of staff corps officers that could be recommended for promotion to grades below rear admiral. See section 622 of this title.

Section 5763, acts Aug. 10, 1956, ch. 1041, 70A Stat. 352; Sept. 2, 1958, Pub. L. 85–861, § 1(127), 72 Stat. 1497; Nov. 8, 1967, Pub. L. 90–130, § 1(19)(I), 81 Stat. 378, directed Secretary of Navy to furnish appropriate selection boards with number of certain women officers in a staff corps of Navy that could be recommended for promotion to grade of captain, commander, or lieutenant commander. See section 622 of this title.

Section 5764, acts Aug. 10, 1956, ch. 1041, 70A Stat. 353; Nov. 8, 1967, Pub. L. 90–130, § 1(19)(J), (K), 81 Stat. 378, related to establishment of promotion zones in each grade in line of Navy. See section 623 of this title.

Section 5765, acts Aug. 10, 1956, ch. 1041, 70A Stat. 354; Aug. 3, 1961, Pub. L. 87–123, § 5(19), 75 Stat. 266; Nov. 8, 1967, Pub. L. 90–130, § 1(19)(J), (L), 81 Stat. 378, related to establishment of promotion zones in each grade of Marine Corps. See section 623 of this title.

Section 5766, acts Aug. 10, 1956, ch. 1041, 70A Stat. 355; Nov. 8, 1967, Pub. L. 90–130, § 1(19)(M), 81 Stat. 378, specified Navy staff corps officers considered to be in promotion zones for purposes of boards of selection.

Section 5767, acts Aug. 10, 1956, ch. 1041, 70A Stat. 355; Nov. 8, 1967, Pub. L. 90–130, § 1(19)(N), 81 Stat. 379, related to promotion to flag or general officer grade of officers in Navy or Marine Corps qualified for specific duties. See section 619 et seq. of this title.

Section 5768, act Aug. 10, 1956, ch. 1041, 70A Stat. 356, prescribed normal terms of service for male officers in line of Navy and of Marine Corps.

Section 5769, acts Aug. 10, 1956, ch. 1041, 70A Stat. 356; Aug. 3, 1961, Pub. L. 87–123, § 5(20), 75 Stat. 266; Oct. 22, 1970, Pub. L. 91–491, § 1, 84 Stat. 1089, related to eligibility for promotion of male line officers in Navy and male officers in Marine Corps. See section 619 of this title.

Section 5770, act Aug. 10, 1956, ch. 1041, 70A Stat. 357, prescribed a sea or foreign service requirement for promotion of male officers on the active list in line of Navy.

Section 5771, acts Aug. 10, 1956, ch. 1041, 70A Stat. 358; Nov. 8, 1967, Pub. L. 90–130, § 1(19)(O), (P), 81 Stat. 379, related to eligibility for promotion of women officers on active list in line of Navy and women officers on active list of Marine Corps. See section 619 of this title.

Section 5772, act Aug. 10, 1956, ch. 1041, 70A Stat. 358, related to eligibility of Navy staff corps officers for promotion to grade of rear admiral. See section 619 of this title.

Section 5773, acts Aug. 10, 1956, ch. 1041, 70A Stat. 359; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(10), 71 Stat. 383; Sept. 30, 1966, Pub. L. 89–609, § 1(11), 80 Stat. 853; Nov. 8, 1967, Pub. L. 90–130, § 1(19)(Q)–(S), 81 Stat. 379, related to eligibility of Navy staff corps officers for promotion to grades below rear admiral. See section 619 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§ 5774. Repealed. Pub. L. 90–130, § 1(19)(T), Nov. 8, 1967, 81 Stat. 379]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 359, made women officers on active list of Navy in staff corps, appointed under section 5590 of this title, who were recommended for promotion to a grade above lieutenant (junior grade) in approved report of a selection board convened under chapter 543 of this title eligible for promotion when line officer who was to be her running mate in higher grade became eligible for promotion to that grade.

### [§ 5775. Repealed. Pub. L. 87–649, § 14c(293), Sept. 7, 1962, 76 Stat. 501]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 359; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(11), 71 Stat. 383; Aug. 3, 1961, Pub. L. 87–123, § 5(21), 75 Stat. 266, related to date of entitlement to pay and allowances of grade to which an officer is promoted. See section 904 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as a note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

### [§§ 5776 to 5793. Repealed. Pub. L. 96–513, title III, § 333, Dec. 12, 1980, 94 Stat. 2897]

Section 5776, acts Aug. 10, 1956, ch. 1041, 70A Stat. 361; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(12), 71 Stat. 383; Aug. 3, 1961, Pub. L. 87–123, § 5(22), 75 Stat. 266; Sept. 30, 1966, Pub. L. 89–609, § 1(12), 80 Stat. 853; Nov. 8, 1967, Pub. L. 90–130, § 1(19)(U)–(W), 81 Stat. 379, related to failure of selection. See section 627 of this title.

Section 5777, act Aug. 10, 1956, ch. 1041, 70A Stat. 361, related to removal of an officer's name from a promotion list. See section 629 of this title.

Section 5778, acts Aug. 10, 1956, ch. 1041, 70A Stat. 362; Nov. 8, 1967, Pub. L. 90–130, § 1(19)(X), 81 Stat. 379, related to temporary and permanent natures of appointments under certain of the provisions of former sections 5751 to 5777 of this title.

Section 5779, act Aug. 10, 1956, ch. 1041, 70A Stat. 362, authorized President to terminate temporary promotions at any time.

Section 5780, act Aug. 10, 1956, ch. 1041, 70A Stat. 362, related to permanent promotions of male line officers in Regular Navy and male officers in Regular Marine Corps. See section 619 et seq. of this title.

Section 5781, act Aug. 10, 1956, ch. 1041, 70A Stat. 363, related to permanent promotions of Regular Navy staff corps officers to grade of rear admiral. See section 619 et seq. of this title.

Section 5782, acts Aug. 10, 1956, ch. 1041, 70A Stat. 363; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(13), 71 Stat. 383; Sept. 30, 1966, Pub. L. 89–609, § 1(13), 80 Stat. 853; Nov. 8, 1967, Pub. L. 90–130, § 1(19)(Y), 81 Stat. 379, related to permanent promotions of Regular Navy staff corps officers to grades below rear admiral. See section 619 et seq. of this title.

Section 5783, act Aug. 10, 1956, ch. 1041, 70A Stat. 364, related to permanent promotions of Naval Reserve and Marine Corps Reserve officers. See section 619 et seq. of this title.

Section 5784, act Aug. 10, 1956, ch. 1041, 70A Stat. 365, related to temporary promotions of ensigns in Navy to grade of lieutenant (junior grade) and second lieutenants in Marine Corps to grade of first lieutenant. See section 603 of this title.

Section 5785, acts Aug. 10, 1956, ch. 1041, 70A Stat. 365; Sept. 2, 1958, Pub. L. 85–861, § 33(a)(29), 72 Stat. 1566; Apr. 21, 1976, Pub. L. 94–273, § 2(3), 90 Stat. 375, authorized President to suspend any of the provisions of former sections 5751 to 5784 of this title relating to officers in Navy or Marine Corps except women officers appointed under former section 5590 of this title. See section 123(a), (b) of this title.

Section 5786, acts Aug. 10, 1956, ch. 1041, 70A Stat. 366; Nov. 8, 1967, Pub. L. 90–130, § 1(19)(Z), 81 Stat. 379; Sept. 19, 1978, Pub. L. 95–377, § 6(a), 92 Stat. 721, specified certain categories of officers as ineligible for promotion and provided that officers serving in grades to which they were appointed for periods of limited duration or to which they were temporarily appointed were to be considered for purposes of former sections 5751 to 5785 of this title as serving in the grade they would have held were it not for such temporary appointments. See section 641 of this title.

Section 5787, acts Aug. 10, 1956, ch. 1041, 70A Stat. 366; Sept. 7, 1962, Pub. L. 87–649, §§ 5(b), 14c(30), 76 Stat. 493, 501; Sept. 28, 1971, Pub. L. 92–129, title VI, § 603(b), 85 Stat. 362, related to temporary promotions in times of war or national emergency. See sections 602 and 603 of this title.

Section 5787a, added Pub. L. 85–861, § 1(128)(A), Sept. 2, 1958, 72 Stat. 1497, authorized temporary promotion of an officer in Medical or Dental Corps to grade of lieutenant at any time after first anniversary of date upon which he graduated from medical, dental, or osteopathic school. See section 603 of this title.

Section 5787b, added Pub. L. 85–861, § 1(128)(A), Sept. 2, 1958, 72 Stat. 1497; amended Pub. L. 87–649, § 14c(31), Sept. 7, 1962, 76 Stat. 501, authorized temporary promotion of women officers serving on active duty in grade of ensign in Navy or second lieutenant in Marine Corps. See section 603 of this title.

Section 5787c, added Pub. L. 85–861, § 33(a)(30)(A), Sept. 2, 1958, 72 Stat. 1566; amended Pub. L. 95–377, § 11(a), Sept. 19, 1978, 92 Stat. 721; Pub. L. 96–343, § 10(e), Sept. 8, 1980, 94 Stat. 1130, related to temporary promotion of warrant officers and officers designated for limited duty in Navy and Marine Corps. See section 602 of this title.

Section 5787d, added Pub. L. 95–377, § 4(a), Sept. 19, 1978, 92 Stat. 720; amended Pub. L. 96–343, § 10(e), Sept. 8, 1980, 94 Stat. 1130, authorized temporary promotion under certain circumstances of Navy lieutenants as lieutenant commanders. See section 603 of this title.

Section 5788, acts Aug. 10, 1956, ch. 1041, 70A Stat. 367; Sept. 7, 1962, Pub. L. 87–649, § 14c(32), 76 Stat. 501, related to eligibility for promotion of Navy ensigns and Marine Corps second lieutenants. See section 619 of this title.

Section 5789, act Aug. 10, 1956, ch. 1041, 70A Stat. 367, authorized promotion of officers in the line of the Navy

or of the Marine Corps upon receipt of the thanks of Congress. See section 619 et seq. of this title.

Section 5790, act Aug. 10, 1956, ch. 1041, 70A Stat. 368, authorized advancement in rank of officers of Navy or of Marine Corps by not more than 30 numbers on lineal list for conduct in battle or extraordinary heroism. See section 619 et seq. of this title.

Section 5791, acts Aug. 10, 1956, ch. 1041, 70A Stat. 368; Sept. 28, 1971, Pub. L. 92–129, title VI, § 603(c), 85 Stat. 362; Sept. 19, 1978, Pub. L. 95–377, § 6(b), 92 Stat. 721, vested power to make appointments under former sections 5751 to 5793, except for former sections 5787 and 5787d, of this title in President, by and with advice and consent of Senate. See section 624 of this title.

Section 5792, acts Aug. 10 1956, ch. 1041, 70A Stat. 368; Nov. 2, 1966, Pub. L. 89–718, § 4, 80 Stat. 1115, dispensed with need for an oath of office upon promotion to a higher grade in the case of an officer of the naval service who had served continuously since subscribing to the oath of office prescribed in section 3331 of title 5. See section 626 of this title.

Section 5793, added Pub. L. 90–228, § 1(3)(A), Dec. 28, 1967, 81 Stat. 745, related to authorized strengths in grade and promotions of Medical Corps and Dental Corps officers. See section 521 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## [CHAPTER 547—REPEALED]

### [§§ 5861, 5862. Repealed. Pub. L. 96–513, title III, § 333, Dec. 12, 1980, 94 Stat. 2897]

Section 5861, acts Aug. 10, 1956, ch. 1041, 70A Stat. 368; Sept. 2, 1958, Pub. L. 85–861, § 1(129), 72 Stat. 1497, required an officer of Regular Navy or of Regular Marine Corps to pass a physical examination as prescribed by Secretary of Navy in order to qualify for promotion to a grade above ensign in Navy or second lieutenant in Marine Corps. See section 624 of this title.

Section 5862, acts Aug. 10, 1956, ch. 1041, 70A Stat. 369; Sept. 2, 1958, Pub. L. 85–861, § 1(131), 72 Stat. 1498, related to mental, moral, and professional qualifications required to be demonstrated by officers on active list of Navy or Marine Corps in order to be promoted to grades of lieutenant (junior grade) or above in Navy or first lieutenant or above in Marine Corps. See section 624 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§ 5863. Repealed. Pub. L. 85–861, § 36B(14), Sept. 2, 1958, 72 Stat. 1571]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 369, related to procedure before examining boards.

### [§§ 5864, 5865. Repealed. Pub. L. 96–513, title III, § 333, Dec. 12, 1980, 94 Stat. 2897]

Section 5864, act Aug. 10, 1956, ch. 1041, 70A Stat. 370, related to discharge of officers not morally qualified. See section 630 of this title.

Section 5865, act Aug. 10, 1956, ch. 1041, 70A Stat. 370, related to effect of a failure to qualify professionally. See section 624 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§ 5866. Repealed. Pub. L. 85–861, § 36B(15), Sept. 2, 1958, 72 Stat. 1571]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 371, related to delegation of power by President to Secretary of Navy.

### [§ 5867. Repealed. Pub. L. 96–513, title III, § 333, Dec. 12, 1980, 94 Stat. 2897]

Section, added Pub. L. 85–861, § 1(132)(A), Sept. 2, 1958, 72 Stat. 1498, required moral, professional, and physical examinations before officers of the Naval or Marine Corps Reserves could be promoted to the next higher grades. See section 624 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## [CHAPTER 549—REPEALED]

### [§§ 5891 to 5906. Repealed. Pub. L. 103–337, div. A, title XVI, § 1629(b)(2), Oct. 5, 1994, 108 Stat. 2963]

Section 5891, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1499; amended Pub. L. 90–130, § 1(20)(A), Nov. 8, 1967, 81 Stat. 379; Pub. L. 96–513, title V, § 503(32), Dec. 12, 1980, 94 Stat. 2913; Pub. L. 98–525, title V, § 533(e), Oct. 19, 1984, 98 Stat. 2528, related to officers in active status in Naval Reserve and Marine Corps Reserve who could be promoted under this chapter. See section 14301 et seq. of this title.

Section 5892, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1500; amended Pub. L. 96–513, title V, § 503(33), Dec. 12, 1980, 94 Stat. 2914; Pub. L. 104–106, div. A, title XV, § 1501(c)(27), Feb. 10, 1996, 110 Stat. 500, related to numbers of officers in each grade in Naval Reserve and Marine Corps Reserve that could be promoted. See section 14001 et seq. of this title.

Section 5893, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1500; amended Pub. L. 91–199, § 2, Feb. 26, 1970, 84 Stat. 16, related to composition and procedures of selection boards. See sections 14102 and 14108(b) of this title.

Section 5894, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1501, required members of selection boards to take oaths. See section 14103 of this title.

Section 5895, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1501, related to information to be furnished to selection boards. See section 14107 of this title.

Section 5896, added Pub. L. 99–661, div. A, title V, § 507(a), Nov. 14, 1986, 100 Stat. 3865, related to recommendations for promotion by selection boards. See section 14108 of this title.

A prior section 5896, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1501; amended Pub. L. 90–130, § 1(20)(B), Nov. 8, 1967, 81 Stat. 379; Pub. L. 90–179, § 12, Dec. 8, 1967, 81 Stat. 549; Pub. L. 96–513, title V, § 503(34), Dec. 12, 1980, 94 Stat. 2914; Pub. L. 97–22, § 10(b)(10)(B), July 10, 1981, 95 Stat. 137, related to officers recommended for promotion by selection boards, prior to repeal by Pub. L. 99–661, § 507(a).

Section 5897, added Pub. L. 99–661, div. A, title V, § 507(a), Nov. 14, 1986, 100 Stat. 3865, related to reports by selection boards listing officers recommended for promotion. See section 14109(a), (b) of this title.

A prior section 5897, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1502; amended Pub. L. 90–179, § 12, Dec. 8, 1967, 81 Stat. 549; Pub. L. 96–513, title V, § 503(34), Dec. 12, 1980, 94 Stat. 2914; Pub. L. 97–22, § 10(b)(10)(B), July 10, 1981, 95 Stat. 137; Pub. L. 98–525, title XIV, § 1405(47), Oct. 19, 1984, 98 Stat. 2625, related to reports and certifications by selection boards, prior to repeal by Pub. L. 99–661, § 507(a).

Section 5898, added Pub. L. 99–661, div. A, title V, § 507(a), Nov. 14, 1986, 100 Stat. 3865, related to action on

reports of selection boards. See sections 14104, 14110(b), 14111(a), (b), and 14112 of this title.

A prior section 5898, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1503; amended Pub. L. 96–513, title V, § 503(34), Dec. 12, 1980, 94 Stat. 2914; Pub. L. 97–22, § 10(b)(10)(B), July 10, 1981, 95 Stat. 137, related to submission of reports of selection boards to the President, prior to repeal by Pub. L. 99–661, § 507(a).

Section 5899, added Pub. L. 99–661, div. A, title V, § 507(a), Nov. 14, 1986, 100 Stat. 3866, related to eligibility of running mates for consideration for promotion. See section 14306(b) of this title.

A prior section 5899, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1503; amended Pub. L. 86–559, § 1(42), June 30, 1960, 74 Stat. 274; Pub. L. 89–275, §§ 1, 2, Oct. 20, 1965, 79 Stat. 1010; Pub. L. 89–609, § 1(14), Sept. 30, 1966, 80 Stat. 853; Pub. L. 90–130, § 1(20)(C), Nov. 8, 1967, 81 Stat. 379; Pub. L. 96–513, title V, § 503(35), Dec. 12, 1980, 94 Stat. 2914; Pub. L. 97–22, § 10(b)(10)(B), July 10, 1981, 95 Stat. 137, related to eligibility of officers in promotion zones for consideration by selection boards, prior to repeal by Pub. L. 99–661, § 507(a).

Section 5900, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1504, related to right of officer eligible for consideration for promotion to send communication to selection board. See section 14106 of this title.

Section 5901, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1504; amended Pub. L. 96–513, title V, § 503(36), Dec. 12, 1980, 94 Stat. 2914, related to numbers of officers that a selection board may recommend for promotion. See section 14307 of this title.

Section 5902, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1504; amended Pub. L. 86–559, § 1(43), June 30, 1960, 74 Stat. 274; Pub. L. 89–731, §§ 3–5, Nov. 2, 1966, 80 Stat. 1160; Pub. L. 96–513, title V, § 503(37), Dec. 12, 1980, 94 Stat. 2914, related to promotion lists, eligibility of officers of Naval Reserve and Marine Corps Reserve for promotion, and date of rank. See sections 14308(a), (d) and 14311(a) of this title.

Section 5903, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1505; amended Pub. L. 90–130, § 1(20)(D), Nov. 8, 1967, 81 Stat. 380; Pub. L. 99–661, div. A, title V, § 507(b)(2), Nov. 14, 1986, 100 Stat. 3866, related to failure of officers of Naval Reserve and Marine Corps Reserve of selection for promotion. See section 14501 et seq. of this title.

Section 5904, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1505, related to effect of erroneous omission of name from list furnished to selection board. See section 14502 of this title.

Section 5905, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1505; amended Pub. L. 96–513, title V, § 503(38), Dec. 12, 1980, 94 Stat. 2914; Pub. L. 99–661, div. A, title V, § 507(b)(3), Nov. 14, 1986, 100 Stat. 3866; Pub. L. 100–456, div. A, title V, § 502(a), Sept. 29, 1988, 102 Stat. 1966, related to removal of reserve officers from promotion list. See section 14310 of this title.

Section 5906, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1506; amended Pub. L. 96–513, title V, § 503(39), Dec. 12, 1980, 94 Stat. 2914, related to promotion of reserve officers transferred to inactive status list. See section 14317(a) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

### [§ 5907. Repealed. Pub. L. 87–649, § 14c(33), Sept. 7, 1962, 76 Stat. 501]

Section, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1506; Pub. L. 86–559, § 1(44), June 30, 1960, 74 Stat. 274, related to pay and allowances of reserve officers promoted to a grade above lieutenant (junior grade) in the Naval Reserve or above first lieutenant in the Marine Corps Reserve, and is covered by section 905 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF REPEAL

Section repealed effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

### [§§ 5908 to 5912. Repealed. Pub. L. 103–337, div. A, title XVI, § 1629(b)(2), Oct. 5, 1994, 108 Stat. 2963]

Section 5908, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1506; amended Pub. L. 87–649, § 14c(34), Sept. 7, 1962, 76 Stat. 501, related to eligibility of ensigns in Naval Reserve and second lieutenants in Marine Corps Reserve for promotion. See section 14001 et seq. of this title.

Section 5909, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1506, provided that sea or foreign service not be required for promotion of reserve officers under this chapter.

Section 5910, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1506; amended Pub. L. 96–513, title V, § 503(40), Dec. 12, 1980, 94 Stat. 2914, provided that officers in Naval Reserve and Marine Corps Reserve could be promoted under regulations prescribed by Secretary of the Navy. See section 14301 et seq. of this title.

Section 5911, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1507; amended Pub. L. 86–559, § 1(45), June 30, 1960, 74 Stat. 274, related to promotions of reserve officers by temporary and permanent appointments. See section 14301 et seq. of this title.

Section 5912, added Pub. L. 85–861, § 1(133), Sept. 2, 1958, 72 Stat. 1507; amended Pub. L. 92–129, title VI, § 603(d), Sept. 28, 1971, 85 Stat. 362, related to President's power to make appointments under this chapter of officers in Naval Reserve and Marine Corps Reserve. See section 14301 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

## CHAPTER 551—OFFICERS IN COMMAND

Sec.
[5941. Repealed.]
5942. Aviation commands: eligibility.
5943. Naval shipyards.
5944. Marine Corps officers: limitation on power to command.
5945. Staff corps officers: limitation on power to command.
5946. Precedence accorded commanding officers.
5947. Requirement of exemplary conduct.
5948. Consular powers: senior officer present afloat.
5949. Policy as to leave and liberty.
[5950. Repealed.]
5951. Continuation of authority after loss of vessel or aircraft.
5952. Marine Corps organizations on vessels: authority of officers.
[5953 to 5955. Repealed.]

AMENDMENTS

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''.

### [§ 5941. Repealed. Pub. L. 90–235, § 5(b)(1), Jan. 2, 1968, 81 Stat. 761]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 371, authorized President to prescribe regulations governing

the assignment of officers to command fleets, subdivisions of fleets, and vessels.

### § 5942. Aviation commands: eligibility

(a) 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.

(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; Pub. L. 91–198, § 1(1), Feb. 26, 1970, 84 Stat. 15.)

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

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''.

### § 5943. 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.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 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.

### § 5944. 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.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 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''.

### § 5945. 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; Pub. L. 90–130, § 1(21), Nov. 8, 1967, 81 Stat. 380.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5945 ..... | 34 U.S.C. 253. | 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). |
| | 34 U.S.C. 30h (1st 23 words). | Aug. 4, 1947, ch. 459, § 207 (1st 23 words), 61 Stat. 738; renumbered § 206, Aug. 7, 1947, ch. 512, § 433(b), 61 Stat. 881. |
| | 34 U.S.C. 43d (proviso). | 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

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

### § 5946. 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.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5946 ..... | 34 U.S.C. 246. | R.S. 1468. |

The word ''placed'' is omitted as surplusage. The words ''of war'' are omitted to avoid an erroneous implication that the section does not apply to the commanding officers of noncombatant ships of the Navy. As of the date of enactment of R.S. 1468, all vessels of the Navy were ''vessels of war''; the elimination of the words, therefore, preserves the purpose of the statute.

### § 5947. Requirement of exemplary conduct

All commanding officers and others in authority in the naval service are required to show in themselves a good example of virtue, honor, patriotism, and subordination; to be vigilant in inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Navy, all persons who are guilty of them; and to take all necessary and proper measures, under the laws, regulations, and customs of the naval service, to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge.

(Aug. 10, 1956, ch. 1041, 70A Stat. 372.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5947 ..... | 34 U.S.C. 265. | May 5, 1950, ch. 169, § 7(c), 64 Stat. 146. |

### § 5948. Consular powers: senior officer present afloat

In any foreign port where there is no resident consul of the United States, or on the high seas, the senior officer present afloat has the powers of a consul in relation to mariners of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 372.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5948 ..... | 34 U.S.C. 217. | R.S. 1433. |

The words ''the senior officer present afloat'' are substituted for the words ''The commanding officer of any fleet, squadron, or vessel acting singly''. At the time of enactment of the Revised Statutes, the word ''squadron'' meant any number of vessels more than one. Today the concept of ''senior officer present afloat'' covers as nearly as possible the current equivalent of the original statute.

### § 5949. Policy as to leave and liberty

The commanding officer of a vessel shall favor the faithful and obedient in granting leave and liberty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 372.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5949 ..... | 34 U.S.C. 220. | R.S. 1431. |

The words ''to exercise carefully a discrimination in'' are omitted as surplusage. The words ''leave and liberty'' are substituted for ''temporary leave of absence and liberty on shore'' to conform to modern terminology.

### [§ 5950. Repealed. Pub. L. 90–235, § 5(b)(1), Jan. 2, 1968, 81 Stat. 761]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 372, provided that the commanding officer of a vessel could not be required to perform the duties of an officer in the Supply Corps.

### § 5951. Continuation of authority after loss of vessel or aircraft

If the crew of any naval vessel or naval aircraft are separated from their vessel or aircraft because of its wreck, loss, or destruction, all the command and authority given to the officers of the vessel or aircraft remain in full force until the crew are discharged or reassigned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 372.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5951 ..... | 34 U.S.C. 264. | May 5, 1950, ch. 169, § 7(a), 64 Stat. 145. |

The word ''officers'' is substituted for the word ''officer'' since the cited subsection of the Act of May 5, 1950, was intended to reenact the substance of Article 21 of the Articles for the Government of the Navy (R.S. 1624; 34 U.S.C. 1200), in which the word ''officers'' was used. The words ''regularly'' and ''by competent authority'' are omitted as surplusage.

### § 5952. Marine Corps organizations on vessels: authority of officers

When an organization of the Marine Corps is embarked in any vessel, not as part of the authorized complement of the vessel, the authority of the officers of that organization is the same as though the organization were serving at a naval station. However, this section does not impair the paramount authority of the commanding officer of a vessel over the vessel and all persons embarked in it.

(Aug. 10, 1956, ch. 1041, 70A Stat. 372.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5952 ..... | 34 U.S.C. 623c. | May 5, 1950, ch. 169, § 7(b), 64 Stat. 145. |

The words ''organization of the Marine Corps'' are substituted for ''force of marines'' for clarity. The words ''or vessels'', ''and powers'', ''on shore'', and ''under his command'' are omitted as surplusage.

### [§§ 5953, 5954. Repealed. Pub. L. 90–235, § 5(a)(2), (b)(1), Jan. 2, 1968, 81 Stat. 761]

Section 5953, act Aug. 10, 1956, ch. 1041, 70A Stat. 372, provided for the assignment and authority of executive officers of vessels or naval stations.

Section 5954, act Aug. 10, 1956, ch. 1041, 70A Stat. 373, provided for command when different commands of the Marine Corps and the Army or the Marine Corps and the Air Force joined or served together. See section 747 of this title.

### [§ 5955. Repealed. Pub. L. 96–513, title III, § 361(a), Dec. 12, 1980, 94 Stat. 2902]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 373, directed that retired officers of the Navy be withdrawn from command. See section 750 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## CHAPTER 553—SPECIAL ASSIGNMENTS AND DETAILS

Sec.
[5981, 5982. Repealed.]
5983. State Department: assignment of enlisted members as custodians of buildings in foreign countries.
[5984. Repealed.]
5985. Nautical Schools: detail of naval officers as superintendents or instructors.
5986. Technical institutions: detail of naval officers to promote knowledge of naval engineering and naval architecture.
[5987. Repealed.]

AMENDMENTS

1980—Pub. L. 96–513, title V, § 503(42), Dec. 12, 1980, 94 Stat. 2914, struck out item 5982 ''Ships and squadrons: detail of retired officers to command''.

1970—Pub. L. 91–482, § 2C, Oct. 21, 1970, 84 Stat. 1082, struck out item 5981 ''Squadrons: detail of officers on active list to command''.

1968—Pub. L. 90–235, § 4(a)(4), (b)(3), Jan. 2, 1968, 81 Stat. 759, 760, struck out item 5984 ''Military institutions and colleges: details as superintendents and instructors'', and item 5987 ''American National Red Cross: detail of officers in the Medical Corps''.

### [§ 5981. Repealed. Pub. L. 91–482, § 1(a), Oct. 21, 1970, 84 Stat. 1082]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 373, provided that the President could select any officer on the active list of the Navy not below the grade of commander and assign him to the command of a squadron, with the rank and title of a flag officer.

### [§ 5982. Repealed. Pub. L. 96–513, title III, § 361(b), Dec. 12, 1980, 94 Stat. 2902]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 373, authorized a detail of retired officers to command ships and squadrons in time of war. See section 688 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### § 5983. State Department: assignment of enlisted members as custodians of buildings in foreign countries

Upon the request of the Secretary of State, the Secretary of the Navy may assign enlisted members of the naval service to serve as custodians under the supervision of the principal officer at any embassy, legation, or consulate.

(Aug. 10, 1956, ch. 1041, 70A Stat. 374.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5983 ..... | 22 U.S.C. 957. | Aug. 13, 1946, ch. 957, § 562, 60 Stat. 1011. |

### [§ 5984. Repealed. Pub. L. 90–235, § 4(b)(1), Jan. 2, 1968, 81 Stat. 760]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 374, provided for detail to military institutions and colleges that gave instruction and drill in military tactics of officers of the Navy as superintendents or professors and retired officers and petty officers of the Navy, with their consent, as instructors in military drill and tactics.

### § 5985. Nautical Schools: detail of naval officers as superintendents or instructors

The President may detail officers of the Navy as superintendents or instructors of institutions receiving benefits under section 1304 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295c), when in his opinion it can be done without detriment to the naval service. Officers so detailed shall be recalled from an institution if it is discontinued or if the good of the naval service requires.

(Aug. 10, 1956, ch. 1041, 70A Stat. 374; Pub. L. 99–145, title XIII, § 1303(a)(21), Nov. 8, 1985, 99 Stat. 739.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5985 ..... | 34 U.S.C. 1123 (less 1st proviso as applicable to vessels, and less 2d proviso). | Mar. 4, 1911, ch. 265, § 3 (less 1st proviso as applicable to vessels, and less 2d proviso), 36 Stat. 1353. |

The words ''naval service'' are substituted for the words ''public service'' for uniformity within the section. The citation of the act establishing the nautical institutions is substituted for the words ''such schools'' for clarity. The word ''proper'' is omitted as surplusage.

AMENDMENTS

1985—Pub. L. 99–145 substituted ''section 1304 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295c)'' for ''the Act of March 4, 1911, ch. 265, 36 Stat. 1353, as amended''.

### § 5986. Technical institutions: detail of naval officers to promote knowledge of naval engineering and naval architecture

(a) To promote a knowledge of naval engineering and naval architecture, the President, upon the application of any established scientific school or college in the United States, the Commonwealths or possessions, may detail a qualified officer of the Navy as a professor in that school or college. The number of officers detailed under this section may not exceed 25 at any one time.

(b) The President may prescribe regulations for detailing such officers and may recall them when the public interest requires.

(Aug. 10, 1956, ch. 1041, 70A Stat. 374; Pub. L. 109–163, div. A, title X, § 1057(a)(5), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 5986 ..... | 34 U.S.C. 1126. | Feb. 26, 1879, ch. 105, 20 Stat. 322. |

In subsection (a) the words ''To promote'' are substituted for the words ''For the purposes of promoting'' for brevity and the words ''among the young men of the United States'' are omitted as surplusage. The words ''naval engineering'' are substituted for the words ''steam engineering'' and the words ''naval architecture'' are substituted for the words ''iron-ship building'' to conform to current terminology and to express

more clearly the intent of the statute. The words ''the Territories, Commonwealths, or possessions'' are inserted, since the words ''United States'' in the source statute are considered to have included all areas under the United States flag.

Section 1 of the Act of March 3, 1899, ch. 413, 30 Stat. 1004, transferred officers of the Engineer Corps of the Navy to the line of the Navy; therefore, in subsection (a) the words ''qualified officer'' are substituted for the words ''engineer officer'' to preserve the meaning of the section and to include any officer possessing adequate background and training in engineering duties.

In subsection (b) the word ''regulations'' is substituted for the word ''rules'', and the words ''public interest'' are substituted for the words ''public service'' to conform to current terminology.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–163 substituted ''Commonwealths or possessions'' for ''Territories, Commonwealths, or possessions''.

### [§ 5987. Repealed. Pub. L. 90–235, § 4(a)(2), Jan. 2, 1968, 81 Stat. 759]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 374, provided for the detail of officers in the Medical Corps of the Navy for duty with the Services to the Armed Forces Division of the American National Red Cross. See section 711a of this title.

## CHAPTER 555—ADMINISTRATION

Sec.
6011. Navy Regulations.
6012. Additional regulations for Marine Corps.
6013. Enlisted grades and ratings: authority to establish.
6014. Enlisted members: authority for transfer between Marine Corps and Hospital Corps of the Navy.
[6015 to 6018. Repealed.]
6019. Citizenship of officers of vessels.
[6020. Repealed.]
6021. Aviation duties: number of personnel assigned.
6022. Aviation training facilities.
[6023. Repealed.]
6024. Aviation designations: naval flight officer.
[6025, 6026. Repealed.]
6027. Medical Department: composition.
[6028. Repealed.]
6029. Dental services: responsibilities of senior dental officer.
[6030. Repealed.]
6031. Chaplains: divine services.
6032. Indebtedness to Marine Corps Exchanges: payment from appropriated funds in certain cases.
[6033, 6034. Repealed.]
6035. Female members: congressional review period for assignment to duty on submarines or for reconfiguration of submarines.
6036. Fatality reviews.

AMENDMENTS

2003—Pub. L. 108–136, div. A, title V, § 576(b)(2), Nov. 24, 2003, 117 Stat. 1487, added item 6036.

2000—Pub. L. 106–398, § 1 [[div. A], title V, § 573(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–136, added item 6035.

1994—Pub. L. 103–337, div. A, title XVI, § 1673(b)(3), Oct. 5, 1994, 108 Stat. 3016, struck out items 6017 ''Retired list for Reserve members entitled to retired pay'' and 6034 ''Regulations for retired pay based on service in the Reserve''.

1993—Pub. L. 103–160, div. A, title V, § 541(b), Nov. 30, 1993, 107 Stat. 1659, struck out item 6015 ''Women members: duty; qualifications; restrictions''.

1980—Pub. L. 96–513, title V, § 503(43), Dec. 12, 1980, 94 Stat. 2914, struck out items 6018 ''Naval officers: shore duty; limitations'' and 6028 ''Medical Service Corps: composition''.

1972—Pub. L. 92–310, title II, § 204(c), June 6, 1972, 86 Stat. 203, struck out item 6026 ''Supply Corps officers: bonds''.

1971—Pub. L. 92–168, § 2(3), Nov. 24, 1971, 85 Stat. 489, struck out items 6023 ''Aviation designations: naval aviator,'' and 6025 ''Aviation designations: aviation pilot''.

1970—Pub. L. 91–198, § 1(3), Feb. 26, 1970, 84 Stat. 15, substituted ''naval flight officer'' for ''naval aviation observer'' in item 6024.

1968—Pub. L. 90–235, § 7(a)(5), Jan. 2, 1968, 81 Stat. 763, struck out item 6033 ''Woman member: definition of dependents''.

1967—Pub. L. 90–130, § 1(22), Nov. 8, 1967, 81 Stat. 380, struck out item 6030 ''Nurse Corps officers: authority''.

1961—Pub. L. 87–123, § 5(24), Aug. 3, 1961, 75 Stat. 266, struck out item 6020 ''Marine Corps officers: detail to duty in Supply Department''.

1958—Pub. L. 85–861, § 1(135), Sept. 2, 1958, 72 Stat. 1507, struck out item 6016 ''Retired officers carried on Navy Register''.

### § 6011. Navy Regulations

United States Navy Regulations shall be issued by the Secretary of the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 375; Pub. L. 97–60, title II, § 204(a)(2), Oct. 14, 1981, 95 Stat. 1007.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6011 ..... | 34 U.S.C. 591. | R.S. 1547. |

So much as pertains to the ''orders, regulations, and instructions issued by the Secretary of the Navy prior to July 14, 1862'' and the alterations thereto is omitted as executed, and the section is worded to preserve the remaining requirement that Navy Regulations must be issued with Presidential approval. The words ''United States Navy Regulations'' are substituted for the words ''regulations of the Navy'' to preserve the distinction between the permanent regulations of general applicability falling within this statute and the many other regulations issued by the Secretary alone under specific statutes and under his power to administer the Department.

AMENDMENTS

1981—Pub. L. 97–60 struck out ''with the approval of the President'' after ''Secretary of the Navy''.

NAVY REGULATIONS ISSUED BEFORE OCTOBER 14, 1981

Section 204(b) of Pub. L. 97–60 provided that: ''United States Navy regulations issued under section 6011 of title 10, United States Code, before the date of the enactment of this Act [Oct. 14, 1981] shall remain in effect in accordance with their terms until amended or revoked by the Secretary of the Navy.''

DELEGATION OF FUNCTIONS

For delegation to Secretary of Defense of authority vested in President by section 591 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.

### § 6012. Additional regulations for Marine Corps

The President may prescribe military regulations for the discipline of the Marine Corps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 375.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6012 ..... | 34 U.S.C. 714. | R.S. 1620. |

The words ''such'' and ''as he may deem expedient'' are omitted as surplusage.

## § 6013. Enlisted grades and ratings: authority to establish

The Secretary of the Navy may establish such enlisted grades and ratings as are necessary for the proper administration of the Navy and the Marine Corps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 375.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6013 ..... | 34 U.S.C. 176. | June 4, 1920, ch. 228, § 7 (proviso), 41 Stat. 836. |
| | 34 U.S.C. 34 (less 1st sentence, and less proviso of 2d sentence). | Aug. 29, 1916, ch. 417 (1st par. under ''Hospital Corps'', less 1st sentence, and less proviso of 2d sentence), 39 Stat. 572; Aug. 4, 1947, ch. 459, § 301(a), 61 Stat. 738. |

The words ''in his discretion'' and ''of the enlisted personnel'' are omitted as surplusage. The words ''Navy and the Marine Corps'' are substituted for the words ''naval service''.

## § 6014. Enlisted members: authority for transfer between Marine Corps and Hospital Corps of the Navy

Under regulations prescribed by the Secretary of the Navy, enlisted members of the Marine Corps are eligible for transfer to the Hospital Corps of the Navy, and enlisted members of the Hospital Corps are eligible for transfer to the Marine Corps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 375.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6014 ..... | 34 U.S.C. 34 (proviso of 2d sentence). | Aug. 29, 1916, ch. 417 (proviso of 2d sentence in 1st paragraph under ''Hospital Corps''), 39 Stat. 572; Aug. 4, 1947, ch. 459, § 301(a), 61 Stat. 738. |
| | 34 U.S.C. 34a. | Aug. 4, 1947, ch. 459, § 302, 61 Stat. 738. |

The authority to transfer Navy personnel to the Hospital Corps and personnel of that Corps to other branches or designations in the Navy is omitted as unnecessary because transfers within the Navy are permitted under provisions which authorize the Secretary of the Navy to establish grades and ratings (34 U.S.C. 176) and to administer the Department (5 U.S.C. 171a(c)).

The saving provision of 34 U.S.C. 34a which provided that no person would suffer any reduction in grade, rating, or pay, is omitted as executed. It pertained to personnel who, when the Hospital Corps was reorganized under the Act of August 4, 1947, ch. 459, §§ 301, 302, 61 Stat. 738, were in grades and ratings prescribed by prior laws.

## [§ 6015. Repealed. Pub. L. 103–160, div. A, title V, § 541(a), Nov. 30, 1993, 107 Stat. 1659]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 375; Oct. 20, 1978, Pub. L. 95–485, title VIII, § 808, 92 Stat. 1623; Dec. 12, 1980, Pub. L. 96–513, title V, § 503(44), 94 Stat. 2914; Dec. 5, 1991, Pub. L. 102–190, div. A, title V, § 531(b), 105 Stat. 1365, related to women members, duties, qualifications, and restrictions.

## [§ 6016. Repealed. Pub. L. 85–861, § 36B(16), Sept. 2, 1958, 72 Stat. 1571]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 376, required names of retired officers to be carried on Navy Register.

## [§ 6017. Repealed. Pub. L. 103–337, div. A, title XVI, § 1662(k)(2), Oct. 5, 1994, 108 Stat. 3006]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 376, related to Naval Reserve Retired List for Reserve members entitled to retired pay. See section 12774(b) of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

## [§ 6018. Repealed. Pub. L. 96–513, title III, § 372, Dec. 12, 1980, 94 Stat. 2903]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 376; Aug. 1, 1958, Pub. L. 85–588, 72 Stat. 488, related to assignment of Regular Navy officers to shore duty.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## § 6019. Citizenship of officers of vessels

The officers of vessels of the United States shall in all cases by citizens of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 376.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6019 ..... | 34 U.S.C. 211. | R.S. 1428. |

## [§ 6020. Repealed. Pub. L. 87–123, § 5(23), Aug. 3, 1961, 75 Stat. 266]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 376, provided for detail of Marine Corps officers for duty in supply department for a period of four years.

## § 6021. Aviation duties: number of personnel assigned

The number of officers and enlisted members of the Navy and the Marine Corps detailed to duty involving flying and to other duties in connection with aircraft shall be in accordance with the requirements of naval aviation as determined by the Secretary of the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 376.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6021 ..... | 34 U.S.C. 732. | July 12, 1921, ch. 44, § 8 (last par., less provisos), 42 Stat. 141. |

HISTORICAL AND REVISION NOTES—CONTINUED

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| | 34 U.S.C. 732a. | July 22, 1935, ch. 402, § 8, 49 Stat. 490. |

The provisions cited as source are consolidated in this section. The second sentence of § 8 of the Act of July 22, 1935, is omitted as executed.

### § 6022. Aviation training facilities

The President may maintain facilities to provide flight training for 16,000 members of the naval service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 376.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 6022 ..... | 34 U.S.C. 736. | June 15, 1940, ch. 375, § 1 (2d sentence), 54 Stat. 400. |

The proviso to the effect that the section does not affect the responsibility of the Secretary of the Navy under 34 U.S.C. 732 is omitted as unnecessary. The words ''as may, in his judgment, be necessary'' are omitted as surplusage. The words ''members of the naval service'' are substituted for ''naval aviators'' to avoid the implication that trainees are naval aviators while undergoing the training. The designation depends on successful completion of flight training.

### [§ 6023. Repealed. Pub. L. 92–168, § 2(1), Nov. 24, 1971, 85 Stat. 489]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 376; Oct. 13, 1964, Pub. L. 88–647, title III, § 301(15), 78 Stat. 1072, provided qualifications to receive aviation designation of naval aviator. See section 2003 of this title.

### § 6024. Aviation designations: naval flight officer

Any officer of the naval service may be designated a naval flight officer if he has successfully completed the course prescribed for naval flight officers.

(Aug. 10, 1956, ch. 1041, 70A Stat. 377; Pub. L. 91–198, § 1(2), Feb. 26, 1970, 84 Stat. 15.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 6024 ..... | 34 U.S.C. 735 (par. 3). | June 24, 1926, ch. 668, § 3 (par. 3), 44 Stat. 767. |

The phrase ''by competent authority'' is omitted as surplusage. The definition form of 34 U.S.C. 735 is not followed.

AMENDMENTS

1970—Pub. L. 91–198 substituted ''naval flight officer'' for ''naval aviation observer'' and ''naval flight officers'' for ''naval aviation observers,'' and struck out requirement that such officer have been in the air at least 100 hours.

### [§ 6025. Repealed. Pub. L. 92–168, § 2(2), Nov. 24, 1971, 85 Stat. 489]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 377, provided qualifications to receive aviation designation of aviation pilot. See section 2003 of this title.

### [§ 6026. Repealed. Pub. L. 92–310, title II, § 204(a), June 6, 1972, 86 Stat. 202]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 377, required officers in Supply Corps to give good and sufficient bonds to account for all public money and property that they receive.

### § 6027. Medical Department: composition

The Medical Corps and Dental Corps, and such other staff corps as the Secretary of the Navy may establish under section 5150(b) of this title and designate to be in the Medical Department of the Navy, are in the Medical Department of the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 377; Pub. L. 96–513, title III, § 353, Dec. 12, 1980, 94 Stat. 2902; Pub. L. 99–433, title V, § 514(c)(3), Oct. 1, 1986, 100 Stat. 1055.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 6027 ..... | 34 U.S.C. 30a (1st 20 words of 1st sentence). | Aug. 4, 1947, ch. 459, § 201 (1st 20 words of 1st sentence), 61 Stat. 736. |
| | 34 U.S.C. 43 (less 2d sentence). | Apr. 16, 1947, ch. 38, § 201 (less 2d sentence), 61 Stat. 47; Aug. 7, 1947, ch. 512, § 434(a), 61 Stat. 882. |
| | 34 U.S.C. 32. | Aug. 29, 1916, ch. 417, 39 Stat. 573 (30th through 44th words of 6th par. under ''Hospital Corps''). |
| | 34 U.S.C. 51 (26th through 37th words). | Aug. 29, 1916, ch. 417 (1st par. under ''Naval Dental Corps'', 75th word to end of 1st sentence); added July 1, 1918, ch. 114, 40 Stat. 708 (4th par.). |

There is no provision of law specifically stating that the Medical Corps is in the Medical Department. It was the first corps to have duties relating to medical and sanitary matters and so long as it was the only corps having such duties there was no need for the departmental concept. The subsequent establishment of other corps with related duties ''in the Medical Department'' indicates clearly that the Medical Corps is in that Department.

The words ''effective August 4, 1947'' and the words ''establishing the Medical Service Corps'' in 34 U.S.C. 30a are omitted as executed. The words ''is created and established as a Staff Corps of the United States Navy'' in 34 U.S.C. 43 are omitted as executed.

AMENDMENTS

1986—Pub. L. 99–433 substituted ''section 5150(b)'' for ''section 5155(b)''.

1980—Pub. L. 96–513 authorized the Secretary of the Navy to designate staff corps as being in the Medical Department of the Navy and deleted specific references to the Medical Service Corps, the Nurse Corps, and the Hospital Corps as being in such Medical Department.

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.

### [§ 6028. Repealed. Pub. L. 96–513, title III, § 352(b), Dec. 12, 1980, 94 Stat. 2902]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 377, related to the composition of the Medical Service Corps.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### § 6029. Dental services: responsibilities of senior dental officer

(a) The Secretary of the Navy shall prescribe regulations for dental services on ships and at shore stations. Such services shall be under the senior dental officer, who is responsible to the commanding officer of the ship or station for all professional, technical, and administrative matters concerning dental services.

(b) This section does not impose any administrative requirements that would interfere with the proper functioning of battle organizations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 377.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6029 ..... | 5 U.S.C. 456d. | Dec. 28, 1945, ch. 604, § 4, 59 Stat. 667. |

The words ''for establishing'' are omitted as executed and unnecessary.

The last sentence of § 4 of the Act of December 28, 1945, ch. 604, 59 Stat. 667, was a repealing clause and savings provision. It is omitted from this section.

### [§ 6030. Repealed Pub. L. 90–130, § 1(22), Nov. 8, 1967, 81 Stat. 380]

Section, act Aug. 10, 1956, ch. 1040, 70A Stat. 378, gave officers in the Nurse Corps authority in medical and sanitary matters and other work within the line of their professional duties in activities of the Medical Department after officers in the Medical Corps, Dental Corps, and Medical Service Corps and authorized officers in the Nurse Corps to exercise such military authority, other than command, as the Secretary of the Navy prescribed.

### § 6031. Chaplains: divine services

(a) An officer in the Chaplain Corps may conduct public worship according to the manner and forms of the church of which he is a member.

(b) The commanders of vessels and naval activities to which chaplains are attached shall cause divine service to be performed on Sunday, whenever the weather and other circumstances allow it to be done; and it is earnestly recommended to all officers, seamen, and others in the naval service diligently to attend at every performance of the worship of Almighty God.

(c) All persons in the Navy and in the Marine Corps are enjoined to behave themselves in a reverent and becoming manner during divine service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 378; Pub. L. 86–140, Aug. 7, 1959, 73 Stat. 288.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6031(a) ..... | 34 U.S.C. 95. | R.S. 1397. |
| 6031(b) ..... | 34 U.S.C. 266 (1st sentence). | May 5, 1950, ch. 169, § 7(d), 64 Stat. 146. |
| 6031(c) ..... | 34 U.S.C. 266 (2d sentence). | May 5, 1950, ch. 169, § 7(e), 64 Stat. 146. |
| 6031(d) ..... | 34 U.S.C. 96. | R.S. 1398. |

In subsection (c) the words ''and in the Marine Corps'' are added to execute the definition of ''Navy'' in section 1, article 1, of the Act of May 5, 1950, ch. 169, 64 Stat. 146.

AMENDMENTS

1959—Subsec. (d). Pub. L. 86–140 repealed subsec. (d) which required each chaplain to report annually to the Secretary of the Navy the official services performed by him.

### § 6032. Indebtedness to Marine Corps Exchanges: payment from appropriated funds in certain cases

Under regulations prescribed by the Secretary of the Navy, appropriations for the pay of the Marine Corps are available to pay any indebtedness to Marine Corps Exchanges of members of the Marine Corps who are discharged, who desert, or who are sentenced to prison.

(Aug. 10, 1956, ch. 1041, 70A Stat. 378.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6032 ..... | 34 U.S.C. 725. | Aug. 2, 1946, ch. 756, § 28, 60 Stat. 857. |

The words ''while in debt to the United States'' are omitted as surplusage and to avoid the erroneous interpretation that the provision authorizes the payment, out of appropriations, of debts other than to Marine Corps Exchanges.

### [§ 6033. Repealed Pub. L. 90–235, § 7(a)(3), Jan. 2, 1968, 81 Stat. 763]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 378; Sept. 7, 1962, Pub. L. 87–649, § 6(f)(5), 76 Stat. 494; Sept. 7, 1962, Pub. L. 87–651, title I, § 122, 76 Stat. 513, set forth restrictions on the consideration of a husband or child as the dependent of a female member of the Regular Navy, Regular Marine Corps, Fleet Reserve, Fleet Marine Corps Reserve, Naval Reserve or Marine Corps Reserve.

### [§ 6034. Repealed. Pub. L. 103–337, div. A, title XVI, § 1662(j)(8), Oct. 5, 1994, 108 Stat. 3005]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 379, authorized Secretary of Navy to prescribe regulations for Navy and Marine Corps relating to retired pay based on service in the Reserve. See section 12731 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

### § 6035. Female members: congressional review period for assignment to duty on submarines or for reconfiguration of submarines

(a) No change in the Department of the Navy policy limiting service on submarines to males, as in effect on May 10, 2000, may take effect until—

(1) the Secretary of Defense submits to Congress written notice of the proposed change; and

(2) a period of 30 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) expires following the date on which the notice is received.

(b) No funds available to the Department of the Navy may be expended to reconfigure any existing submarine, or to design any new submarine, to accommodate female crew members until—

(1) the Secretary of Defense submits to Congress written notice of the proposed reconfiguration or design; and

(2) a period of 30 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) expires following the date on which the notice is received.

(c) For purposes of this section, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die.

(Added Pub. L. 106–398, § 1 [[div. A], title V, § 573(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–136.)

### § 6036. Fatality reviews

(a) REVIEW OF FATALITIES.—The Secretary of the Navy shall conduct a multidisciplinary, impartial review (referred to as a ''fatality review'') in the case of each fatality known or suspected to have resulted from domestic violence or child abuse against any of the following.

(1) A member of the naval service on active duty.

(2) A current or former dependent of a member of the naval service on active duty.

(3) A current or former intimate partner who has a child in common or has shared a common domicile with a member of the naval service on active duty.

(b) MATTERS TO BE INCLUDED.—The report of a fatality review under subsection (a) shall, at a minimum, include the following:

(1) An executive summary.

(2) Data setting forth victim demographics, injuries, autopsy findings, homicide or suicide methods, weapons, police information, assailant demographics, and household and family information.

(3) Legal disposition.

(4) System intervention and failures, if any, within the Department of Defense.

(5) A discussion of significant findings.

(6) Recommendations for systemic changes, if any, within the Department of the Navy and the Department of Defense.

(c) OSD GUIDANCE.—The Secretary of Defense shall prescribe guidance, which shall be uniform for the military departments, for the conduct of reviews by the Secretary under subsection (a).

(Added Pub. L. 108–136, div. A, title V, § 576(b)(1), Nov. 24, 2003, 117 Stat. 1487.)

EFFECTIVE DATE

Section applicable to fatalities that occur on or after Nov. 24, 2003, see section 576(d) of Pub. L. 108–136, set out as a note under section 4061 of this title.

## CHAPTER 557—RATIONS

Sec.
6081. Navy ration: persons entitled to.
6082. Rations.
6083. Fixing cost on certain vessels and stations.
6084. Enlisted members assigned to mess: basic allowance for subsistence paid to mess.
6085. Flight rations.
6086. Subsistence in hospital messes; hospital ration.[1]
6087. Sale of meals by general messes.

AMENDMENTS

1991—Pub. L. 102–25, title VII, § 701(e)(7), Apr. 6, 1991, 105 Stat. 115, inserted a period after ''6082'' in item 6082.

1990—Pub. L. 101–510, div. A, title V, § 557(b), Nov. 5, 1990, 104 Stat. 1571, amended item 6082 generally, substituting ''Rations'' for ''Navy ration: composition'' in item 6082.

### § 6081. Navy ration: persons entitled to

(a) Each enlisted member of the naval service is entitled to a Navy ration for each day that he is on active duty, including each day that he is on leave.

(b) Each midshipman is entitled to a Navy ration for each day that he is on active duty, including each day that he is on leave.

(c) The Secretary of the Navy may prescribe regulations stating the conditions under which the ration shall be allowed under subsection (b).

(Aug. 10, 1956, ch. 1041, 70A Stat. 379; Pub. L. 87–649, § 5(c), Sept. 7, 1962, 76 Stat. 494; Pub. L. 105–85, div. A, title VI, § 602(b)(2), Nov. 18, 1997, 111 Stat. 1772.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6081 ..... | 34 U.S.C. 901a (1st 2 sentences). | Aug. 2, 1946, ch. 756, § 17(a) (1st 2 sentences), 60 Stat. 855. |
| | 5 U.S.C. 421g (b). | Aug. 2, 1946, ch. 756, § 40(b), 60 Stat. 858. |

So much of 34 U.S.C. 901a as authorizes a commuted ration for enlisted members of the naval service under conditions and at rates prescribed by the Secretary of the Navy is superseded by § 301 of the Career Compensation Act of 1949 (37 U.S.C. 251). That section established a basic allowance for subsistence for enlisted members entitled to basic pay who are not subsisting at Government expense and prescribes the conditions under which the basic allowance for subsistence shall be paid and the amount of the allowance. Pursuant to Executive Order No. 10119, March 30, 1950, 15 F.R. 1757, the Secretary of Defense is authorized to make supplemental regulations to carry out the provisions of § 301. The words ''or to a per diem in place of subsistence'' are inserted to reflect the subsistence allowance authorized by § 303(a) of the Career Compensation Act of 1949 (37 U.S.C. 253a) to members in travel status.

In subsection (a) reference to the Coast and Geodetic Survey is omitted since there are no enlisted personnel in that service, and reference to the Coast Guard is omitted as covered by 14 U.S.C. 478.

In subsections (a) and (b) the words ''or furlough therefrom'' are omitted as surplusage, and the words ''for each day'' are inserted to make clear the fact that a ration is a daily allowance of food and that, in subsection (b), the commuted ration is credited on a daily basis. The words ''and cadets'' are omitted as there are no cadets in the Navy or Marine Corps entitled to a Navy ration. Aviation cadets are entitled to the basic

[1] So in original. Does not conform to section catchline.

allowance for subsistence prescribed for officers (34 U.S.C. 850c).

In subsection (c) the words ''prescribed by law'' and ''in accordance with law'' are omitted as surplusage.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–85 substituted ''Each enlisted member'' for ''Except when entitled to a basic allowance for subsistence or to a per diem in place of subsistence, each enlisted member''.

1962—Subsec. (b). Pub. L. 87–649 struck out provisions which permitted payment of the commuted value of the ration in money. See section 422(b) of Title 37, Pay and Allowances of the Uniformed Services.

Subsec. (c). Pub. L. 87–649 struck out provisions which permitted the Secretary to prescribe regulations for the allowance of the commuted value of the ration. See section 422(b) of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 602(g) of Pub. L. 105–85, set out as a note under section 402 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## § 6082. Rations

(a) The President may prescribe the components and quantities of the Navy ration. The President may direct the issuance of equivalent articles in place of the prescribed components of the ration if the President determines that economy and the health and comfort of the members of the naval service require such action.

(b) An enlisted member of the naval service on active duty is entitled to one ration daily. If an emergency ration is issued, it is in addition to the regular ration.

(c) Fresh or preserved fruits, milk, butter, and eggs necessary for the proper diet of the sick and injured in hospitals shall be provided under regulations prescribed by the Secretary of the Navy.

(d) The Secretary of the Navy may increase the quantity of daily rations for members of the naval service on a vessel or at a station that has an authorized complement of less than 150 members if the President determines that the vessel or station is operating under conditions that warrant an increase in rations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 379; Pub. L. 101–510, div. A, title V, § 557(a), Nov. 5, 1990, 104 Stat. 1570.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6082(a) ..... | 34 U.S.C. 902a. | Mar. 2, 1933, ch. 184, § 1 (2d sentence), 47 Stat. 1423; Feb. 21, 1942, ch. 106, 56 Stat. 97. |
| 6082(b) ..... | 34 U.S.C. 902b. | Mar. 2, 1933, ch. 184, § 2, 47 Stat. 1423. |
| 6082(c) ..... | 34 U.S.C. 902c. | Mar. 2, 1933, ch. 184, § 3, 47 Stat. 1423. |

In subsection (a) the words ''issued to each person entitled thereto'' are omitted as surplusage. In clause (2) the words ''or fresh'' and in clause (6) the words ''together with'' are omitted as surplusage.

AMENDMENTS

1990—Pub. L. 101–510 substituted ''Rations'' for ''Navy ration: composition'' in section catchline and amended text generally, substituting subsecs. (a) to (d) for former subsecs. (a) to (c) which specified the contents and quantities of the Navy ration in detail, authorized issuance of articles in addition to the authorized quantities, and provided for increases in the daily allowance of provisions on certain vessels or at certain stations.

DELEGATION OF AUTHORITY

Authority of President under subsecs. (a) and (d) of this section to prescribe uniform military ration applicable to Navy delegated to Secretary of Defense by section 3(a) of Ex. Ord. No. 12781, Nov. 20, 1991, 56 F.R. 59203, set out as a note under section 301 of Title 3, The President.

## § 6083. Fixing cost on certain vessels and stations

If the Secretary of the Navy considers that it is undesirable to administer the mess on any ship or at any station under the quantity allowance prescribed in section 6082 of this title, he may fix the cost of each ration for that mess.

(Aug. 10, 1956, ch. 1041, 70A Stat. 380.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6083 ..... | 34 U.S.C. 902d. | Mar. 2, 1933, ch. 184, § 4, 47 Stat. 1423; Aug. 3, 1951, ch. 287, 65 Stat. 151. |

The words ''the cost of each ration for that mess'' are substituted for the words ''the monetary limit of the cost of ration aboard such ships and at such stations'' to make it clear that the figure fixed by the Secretary of the Navy under this section is the amount the mess may spend per day for food for each man subsisting at the mess.

## § 6084. Enlisted members assigned to mess: basic allowance for subsistence paid to mess

Under such regulations as the Secretary of the Navy prescribes, the basic allowance for subsistence of enlisted members of the naval service assigned to duty with and subsisting in an officers' or other mess, afloat or ashore, may be paid to the mess to which they are assigned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 380.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6084 ..... | 34 U.S.C. 908. | July 1, 1902, ch. 1368, 32 Stat. 680 (4th par.); Mar. 14, 1940, ch. 53, 54 Stat. 50. |

The words ''basic allowance for subsistence'' are substituted for the words ''money accruing from the commuted rations'' to conform to the terminology of § 301 of the Career Compensation Act of 1949 (37 U.S.C. 251). Section 301 of the Career Compensation Act of 1949 supersedes the authority of the Secretary of the Navy to commute the rations of enlisted members and authorizes in lieu thereof a basic allowance for subsistence. The words ''enlisted members of the naval service'' are substituted for the words ''enlisted men'' for uniformity of expression and for clarity. The word ''legally'' is omitted as surplusage. The words ''and subsisting in'' are inserted to make it clear that the mess must actually subsist the enlisted members assigned before the basic allowance of the members may

be paid to the mess. The words ''to which they are assigned'' are inserted for clarity.

### § 6085. Flight rations

An aircraft flight ration chargeable to the proper Navy or Marine Corps appropriation may be furnished to members of the naval service and to civilian employees of the Department of the Navy while engaged in flight operations. The flight ration is supplementary to any ration or subsistence allowance to which the members or employees are otherwise entitled. However, the flight ration may not be furnished without charge to any person in a travel status or to any person to whom a per diem allowance is granted in place of subsistence.

(Aug. 10, 1956, ch. 1041, 70A Stat. 380.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6085 ..... | 34 U.S.C. 909. | June 5, 1942, ch. 327, 56 Stat. 308. |

The words ''members of the naval service and to civilian employees of the Department of the Navy'' are substituted for the words ''officers, enlisted men, and civilian employees of the Navy and Marine Corps'' for uniformity. The words ''in kind'' and the word ''aircraft'' are omitted as surplusage.

### § 6086. Subsistence in hospital messes: hospital ration

(a) Enlisted members of the naval service on duty in hospitals and enlisted members of the naval service, including retired members and members of the Fleet Reserve and the Fleet Marine Corps Reserve, when sick in hospitals, may be subsisted in hospital messes. When subsistence is furnished under this subsection, the appropriation chargeable with the maintenance of the hospital mess shall be credited at the rate prescribed by the Secretary of the Navy as the value of the hospital ration.

(b) Under such regulations as the Secretary prescribes, officers in the Nurse Corps may be subsisted in hospital messes. Each officer so subsisted shall pay for her subsistence at the rate fixed by the regulations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 380.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6086 ..... | 34 U.S.C. 901a (less 1st and 2d sentences). | Aug. 2, 1946, ch. 756, § 17(a) (less 1st and 2d sentences), 60 Stat. 855. |
| | 34 U.S.C. 43h(a) (1st 21 words of 2d proviso). | Apr. 16, 1947, ch. 38, § 208(a) (1st 25 words of 2d proviso), 61 Stat. 50. |

In subsection (a) the words ''active duty'' before the words ''enlisted personnel'' are omitted as surplusage since there is no authority to hospitalize an enlisted member in a naval hospital under conditions where he would not be entitled to a hospital ration. The words ''active and inactive'' before the words ''retired enlisted personnel'' are omitted as surplusage. The word ''members'' is substituted for the word ''personnel'' for uniformity. The words ''the Fleet Marine Corps Reserve'' are inserted for clarity since the term ''Fleet Reserve'' in the source statute is used in a generic sense and includes members of the Fleet Marine Corps Reserve.

In subsection (b) the words ''that nothing contained in this section shall deprive such nurses of allowances for subsistence now or after August 2, 1946, provided by law'' are omitted as surplusage. Section 301 of the Career Compensation Act of 1949 (37 U.S.C. 251) authorizes a basic allowance for subsistence for all officers entitled to basic pay.

### § 6087. Sale of meals by general messes

Under such regulations as the Secretary of the Navy prescribes, meals may be sold by general messes afloat and ashore.

(Aug. 10, 1956, ch. 1041, 70A Stat. 381.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6087 ..... | 34 U.S.C. 915b(c). | Aug. 2, 1946, ch. 756, § 16(c), 60 Stat. 855. |

## CHAPTER 559—MISCELLANEOUS PROHIBITIONS AND PENALTIES

Sec.
[6111, 6112. Repealed.]
6113. Loans: Supply Corps officers.
[6114 to 6116. Repealed.]

AMENDMENTS

1980—Pub. L. 96–513, title V, § 513(12), Dec. 12, 1980, 94 Stat. 2932, struck out item 6111 ''Pay: withheld during absence due to use of drugs or alcohol''.

1968—Pub. L. 90–235, § 6(a)(4), (9), Jan. 2, 1968, 81 Stat. 762, struck out item 6114 ''Civilian employment: enlisted members'', and item 6116 ''Service credit: officers; service as midshipman or cadet not counted''.

1967—Pub. L. 90–83, § 3(5), Sept. 11, 1967, 81 Stat. 220, struck out item 6112 ''Pay: officers; withheld while employed by certain contractors''.

1958—Pub. L. 85–861, § 1(136), Sept. 2, 1958, 72 Stat. 1507, struck out item 6115 ''Drill pay; uniform gratuity: time limit for filing claim''.

### [§ 6111. Repealed. Pub. L. 87–649, § 14c(35), Sept. 7, 1962, 76 Stat. 501]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 381, related to withholding of pay during absence due to use of alcohol or drugs, and is covered by section 802 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

### [§ 6112. Repealed. Pub. L. 87–649, § 14c(36), Sept. 7, 1962, 76 Stat. 501]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 381; Oct. 9, 1962, Pub. L. 87–777, § 1, 76 Stat. 777, prohibited employment of officers of the Regular Navy and Regular Marine Corps, other than a retired officer, from being employed by any person furnishing naval supplies or war materials to the United States under pain of loss of payment from the United States during that employment.

Section was also repealed by Pub. L. 89–718, § 75(6), (7), Nov. 2, 1966, 80 Stat. 1124.

### § 6113. Loans: Supply Corps officers

Except as otherwise provided by law, an officer in the Supply Corps on active duty may not advance or lend any sum of money, public or pri-

vate, or any article or commodity and may not extend credit to any officer of the naval service on active duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 381.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6113 ..... | 34 U.S.C. 67. | R.S. 1389. |

The words ''paymaster, passed assistant paymaster, or assistant paymaster'' are omitted because those titles no longer exist, and the words ''officer in the Supply Corps'' are substituted therefor.

The words ''except as otherwise provided by law'' are added because the Act of Oct. 5, 1949, ch. 600 (34 U.S.C. 875a), authorizes advances of pay to personnel upon permanent changes of station or where such personnel are on distant duty stations where disbursements of pay and allowances cannot be regularly made, and § 303(a) of the Career Compensation Act of 1949 (37 U.S.C. 253) authorizes advance payments of travel and transportation allowances. The words ''on active duty'' are supplied since the section has application to officers accountable for public funds or property. Officers not on active duty are not accountable officers.

### [§ 6114. Repealed. Pub. L. 90–235, § 6(a)(7), Jan. 2, 1968, 81 Stat. 762]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 381, set forth restrictions on civilian employment for enlisted members of the naval service on active duty. See section 974 of this title.

### [§ 6115. Repealed. Pub. L. 85–861, § 36B(17), Sept. 2, 1958, 72 Stat. 1571]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 382, prescribed a time limit for filing claims for drill pay and for the uniform gratuity. Section was also amended by Pub. L. 85–861, § 33(a)(31), which amended catchline by substituting ''uniform gratuity'' for ''unform gratuity''.

### [§ 6116. Repealed. Pub. L. 90–235, § 6(a)(2), Jan. 2, 1968, 81 Stat. 761]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 382, provided that in computing length of service, no officer of the Navy or Marine Corps could be credited with service as a midshipman at the Naval Academy or as a cadet at the Military Academy, if he was appointed as a midshipman or cadet after Mar. 4, 1913. See section 971 of this title.

## CHAPTER 561—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.
6141. Presentation of United States flag upon retirement.
[6142 to 6150. Repealed.]
6151. Higher retired grade and pay for members who serve satisfactorily under temporary appointments.
6152. Emergency shore duty: advance of funds.
6153. Shore patrol duty: payment of expenses.
6154. Mileage books; commutation tickets.[1]
6155. Uniforms, accouterments, and equipment: sale at cost.
6156. Uniform: sale to former members of the naval service.
[6157 to 6159. Repealed.]
6160. Pension to persons serving ten years.
6161. Remission of indebtedness of enlisted members discharge.[1]

[1] So in original. Does not conform to section catchline.

HISTORICAL AND REVISION NOTES

1962 AMENDMENT

See explanation of section 111(b) [set out as 1962 Amendment in Historical and Revision Notes under section 2634 of this title].

AMENDMENT OF ANALYSIS

*For termination of amendment by section 683(a)(3) of Pub. L. 109–163, see Termination Date of 2006 Amendment note set out under section 6161 of this title.*

AMENDMENTS

2006—Pub. L. 109–163, div. A, title VI, § 683(b)(2), (3), Jan. 6, 2006, 119 Stat. 3323, temporarily struck out ''upon'' after ''members'' in item 6161. See Termination Date of 2006 Amendment note set out under section 6161 of this title.

1998—Pub. L. 105–261, div. A, title VI, § 644(b)(2), Oct. 17, 1998, 112 Stat. 2049, added item 6141.

1986—Pub. L. 99–661, div. A, title VI, § 604(f)(1)(B)(iii), Nov. 14, 1986, 100 Stat. 3877, struck out item 6148 ''Disability and death benefits: Naval Reserve and Marine Corps Reserve''.

1980—Pub. L. 96–513, title V, § 513(13), Dec. 12, 1980, 94 Stat. 2932, struck out items 6141 ''Pay: officers; date of commencement'', 6142 ''Pay: assignments'', 6143 ''Pay: sale to be discouraged by commanding officer'', 6144 ''Pay accounts: settlement when lost with vessel'', 6145 ''Pay accounts: settlement; fixing date of loss of vessel'', 6146 ''Allotments: officers'', and 6147 ''Allowances: prisoners''.

1970—Pub. L. 91–482, § 2D, Oct. 21, 1970, 84 Stat. 1082, struck out item 6159 ''Half rating to disabled naval enlisted personnel serving twenty years''.

1968—Pub. L. 90–235, § 7(b)(4), Jan. 2, 1968, 81 Stat. 763, struck out item 6158 ''Exemption from arrest for debt: enlisted members of Marine Corps''.

1963—Pub. L. 88–132, § 5(h)(3), Oct. 2, 1963, 77 Stat. 214, struck out item 6149 ''Retired pay: computed on basis of rates of pay for officers on the active list''.

1962—Pub. L. 87–651, title I, § 123(c), Sept. 7, 1962, 76 Stat. 514, struck out item 6157 ''Motor vehicles: transportation on permanent change of station''.

1960—Pub. L. 86–511, § 1(b), June 11, 1960, 74 Stat. 207, added item 6161.

1959—Pub. L. 86–155, § 9(a)(2), Aug. 11, 1959, 73 Stat. 337, struck out item 6150 ''Higher retired grade for officers specially commended''.

1958—Pub. L. 85–861, § 1(139)(B), Sept. 2, 1958, 72 Stat. 1508, substituted ''who serve satisfactorily under temporary appointments'' for ''temporarily appointed or promoted during World War II'' in item 6151.

1957—Pub. L. 85–56, title XXII, § 2201(31)(D), June 17, 1957, 71 Stat. 162, eff. Jan. 1, 1958, added items 6159 and 6160.

### § 6141. Presentation of United States flag upon retirement

(a) PRESENTATION OF FLAG.—Upon the release of a member of the Navy or Marine Corps from active duty for retirement or transfer to the Fleet Reserve or the Fleet Marine Corps Reserve, the Secretary of the Navy shall present a United States flag to the member.

(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.

(Added Pub. L. 105–261, div. A, title VI, §644(b)(1), Oct. 17, 1998, 112 Stat. 2048; amended Pub. L. 106–65, div. A, title VI, §652(e), Oct. 5, 1999, 113 Stat. 666.)

PRIOR PROVISIONS

A prior section 6141, act Aug. 10, 1956, ch. 1041, 70A Stat. 382, related to date of commencement of pay of officers of Regular Navy or Regular Marine Corps, prior to repeal by Pub. L. 87–649, §14c(37), Sept. 7, 1962, 76 Stat. 501. See section 905 of Title 37, Pay and Allowances of the Uniformed Services.

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–65 substituted ''under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.'' for ''under this section or section 3681 or 8681 of this title or section 516 of title 14.''

EFFECTIVE DATE

Section applicable with respect to releases from active duty described in this section, sections 3681 and 8681 of this title, and section 516 of Title 14, Coast Guard, on or after Oct. 1, 1998, see section 644(e) of Pub. L. 105–261, set out as a note under section 3681 of this title.

### [§§6142 to 6147. Repealed. Pub. L. 87–649, §14c(38–43), Sept. 7, 1962, 76 Stat. 501]

Section 6142, act Aug. 10, 1956, ch. 1041, 70A Stat. 382, provided for assignments of pay due to enlisted members. See section 705 of Title 37.

Section 6143, act Aug. 10, 1956, ch. 1041, 70A Stat. 383, related to discouragement of sale of pay. See section 805 of Title 37.

Section 6144, act Aug. 10, 1956, ch. 1041, 70A Stat. 383, provided for settlement of pay accounts when lost with vessel. See section 902 of Title 37.

Section 6145, act Aug. 10, 1956, ch. 1041, 70A Stat. 383, related to fixing date of loss of a vessel for purpose of settling accounts of persons aboard other than officers. See section 902 of Title 37.

Section 6146, act Aug. 10, 1956, ch. 1041, 70A Stat. 383, provided for allotments by officers. See section 702 of Title 37.

Section 6147, act Aug. 10, 1956, ch. 1041, 70A Stat. 383, related to allowances for prisoners. See section 426 of Title 37.

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

### [§6148. Repealed. Pub. L. 99–661, div. A, title VI, §604(f)(1)(A), Nov. 14, 1986, 100 Stat. 3877]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 383; Sept. 2, 1958, Pub. L. 85–861, §§1(137), 36B(18), 72 Stat. 1507, 1571; Sept. 7, 1962, Pub. L. 87–649, §6(e), 76 Stat. 494; Sept. 7, 1962, Pub. L. 87–651, title I, §123(a), 76 Stat. 514; Oct. 19, 1984, Pub. L. 98–525, title VI, §631(b), 98 Stat. 2543; Nov. 8, 1985, Pub. L. 99–145, title XIII, §1303(a)(22), 99 Stat. 739, related to disability and death benefits for members of Naval Reserve and Marine Corps Reserve.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99–661, set out as a note under section 1074a of this title.

### [§6149. Repealed. Pub. L. 88–132, §5(h)(3), Oct. 2, 1963, 77 Stat. 214]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 385, related to computation of retired pay on basis of rates of pay for officers on the active list.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as a note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

### [§6150. Repealed. Pub. L. 86–155, §9(a)(1), Aug. 11, 1959, 73 Stat. 337]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 385; Sept. 2, 1958, Pub. L. 85–861, §33(a)(32), 72 Stat. 1566, authorized advancement to a higher retired grade for officers specially commended.

EFFECTIVE DATE OF REPEAL

Section 9(b) of Pub. L. 86–155 provided that the repeal is effective on Nov. 1, 1959.

### §6151. Higher retired grade and pay for members who serve satisfactorily under temporary appointments

(a) Unless otherwise entitled to a higher retired grade and subject to sections 689 and 1370 of this title, each member, other than a retired member, of the Navy or the Marine Corps shall, when retired, be advanced on the retired list to the highest officer grade in which he served satisfactorily under a temporary appointment as determined by the Secretary of the Navy.

(b) Each member (other than a former member of the Fleet Reserve or the Fleet Marine Corps Reserve) who is advanced on the retired list under this section is (unless otherwise entitled to higher retired pay) entitled to retired pay determined in accordance with the following table. References in the table are to sections of this title.

| Column 1<br>Take | Column 2<br>Multiply by |
|---|---|
| Retired pay base computed under section 1406(d) or 1407. | Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to him under section 1405. |

(c) Each former member of the Fleet Reserve or the Fleet Marine Corps Reserve who is advanced on the retired list under this section is entitled to retired pay determined in accordance with the following table. References in the table are to sections of this title.

| Column 1<br>Take | Column 2<br>Multiply by |
|---|---|
| Retired pay base computed under section 1406(d) or 1407. | Retired pay multiplier prescribed under section 1409 for the number of years of service creditable for his retainer pay at the time of retirement. |

(d) A member who is advanced on the retired list under this section from the grade of warrant officer, W–1, or from an enlisted grade to a commissioned grade, and who applies to the Secretary within three months after his advancement, shall, if the Secretary approves, be restored on the retired list to his former warrant officer or enlisted grade, as the case may be. A member who is restored to his former grade under this subsection is thereafter considered for all purposes as a warrant officer, W–1, or an enlisted member, as the case may be.

(e) Retired pay computed under subsection (b) or (c), if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(Aug. 10, 1956, ch. 1041, 70A Stat. 385; Pub. L. 85–422, § 11(a)(6)(A), May 20, 1958, 72 Stat. 131; Pub. L. 85–861, § 1(138), (139)(A), Sept. 2, 1958, 72 Stat. 1507, 1508; Pub. L. 88–132, § 5(h)(4), Oct. 2, 1963, 77 Stat. 214; Pub. L. 96–342, title VIII, § 813(d)(13), Sept. 8, 1980, 94 Stat. 1108; Pub. L. 96–512, title V, §§ 503(45), 513(17), Dec. 12, 1980, 94 Stat. 2914, 2932; Pub. L. 98–94, title IX, §§ 922(a)(9), 923(c)(1), Sept. 24, 1983, 97 Stat. 641, 643; Pub. L. 99–348, title II, § 203(c), July 1, 1986, 100 Stat. 696; Pub. L. 104–201, div. A, title V, § 521(d), Sept. 23, 1996, 110 Stat. 2517.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6151 ..... | 34 U.S.C. 350i(b)(2), (e). | July 24, 1941, ch. 320, § 10(b)(2), (e), 55 Stat. 605; Feb. 21, 1946, ch. 34, § 8(a), 60 Stat. 28. |
| | 34 U.S.C. 410c(a), (b), (c). | Feb. 21, 1946, ch. 34, § 7(a) (less 1st proviso), (b), (c). 60 Stat. 27; Aug. 7, 1947, ch. 512, § 432(a), 61 Stat. 881. |
| | 34 U.S.C. 43g(c). | Apr. 16, 1947, ch. 38, § 207(d), 61 Stat. 49; redesignated (c), Aug. 7, 1947, ch. 512, § 434(d), 61 Stat. 882; May 16, 1950, ch. 186, § 3(h), 64 Stat. 162. |
| | 34 U.S.C. 43g(f), (g). | Apr. 16, 1947, ch. 38, § 207(g), (h), 61 Stat. 47; redesignated (f), (g), Aug. 7, 1947, ch. 512, § 434(d), 61 Stat. 882. |
| | 34 U.S.C. 410r(a), (g), (h). | June 12, 1948, ch. 449, § 207(a), (g), (h), 62 Stat. 366. |
| | 34 U.S.C. 625h(a). | June 12, 1948, ch. 449, § 213(a), 62 Stat. 369. |
| | 34 U.S.C. 993c. | June 19, 1948, ch. 540, § 3, 62 Stat. 505. |

Subsections (b) and (c) are worded to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.). The second and third provisos in 34 U.S.C. 410c(a), relating to the computation of retired pay for officers whose pay on the active list was not based on years of service, are omitted as obsolete, since under the Career Compensation Act of 1949, the active-duty pay of all officers is based on years of service.

In subsection (d) the words ''A retired member who is advanced * * * from the grade of warrant officer, W–1, or from an enlisted grade'' are substituted for the words ''Enlisted men and warrant officers * * * advanced'' and the words ''as a warrant officer, W–1, or an enlisted member'' are substituted for the words ''to be enlisted or warrant officer personnel'' because the Warrant Officer Act of 1954 established the grade of warrant officer, W–1, in lieu of the old warrant officer (as distinguished from commissioned warrant officer) grades. The words ''rank or'' are omitted as unnecessary. The words ''within three months of the date of the approval of this Act'' and ''whichever is the later'' are omitted as executed.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6151(a) ..... | 34 App.:350i(b)(2). | May 31, 1956, ch. 348, § 3, 70 Stat. 222. |

Reference to the provisions of law under which temporary appointments in officer grades were made is omitted as unnecessary, since the provisions cited comprise all existing authority for such appointments.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–201 substituted ''sections 689'' for ''sections 688''.

1986—Subsec. (b). Pub. L. 99–348 amended subsec. (b) generally, substituting provision that retired pay be determined in accordance with the table for provision that retired pay, in the case of a member who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 2½ percent of the basic pay of the grade to which advanced or, in the case of a member who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be at a rate of 2½ percent of the monthly retired pay base computed under section 1407(d), which rates were to be multiplied by the number of years of service credited under section 1405, but such retired pay was not to be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay was based and, in determining the number of years to be used as a multiplier, each additional full month of service was to be counted as one-twelfth of a year and any remaining fractional part of a month was to be disregarded.

Subsec. (c). Pub. L. 99–348 amended subsec. (c) generally, substituting provision that retired pay of a former member be determined in accordance with the table for provision that retired pay, in the case of a former member who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at a rate of 2½ percent of the basic pay of the grade to which advanced, determined by the same period of service used to determine the basic pay of the grade upon which his retainer pay was based, multiplied by the number of years of creditable service for his retainer pay at the time of retirement, but such retired pay was not to be more than 75 percent of the basic pay upon the computation of retired pay was based, or in the case of a former member who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, that retired pay be at a rate of 2½ percent of the monthly retired pay base computed under section 1407(d), multiplied by the number of years of creditable service for his retainer pay at the time of retirement, but such retired pay was not to be more than 75 percent of the monthly retired pay base upon which the computation of retired pay was based.

1983—Subsec. (b)(2). Pub. L. 98–94, § 923(c)(1), substituted ''each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded'' for ''a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded''.

Subsec. (e). Pub. L. 98–94, § 922(a)(9), added subsec. (e).

1980—Subsec. (a). Pub. L. 96–513, § 503(45), inserted ''and subject to sections 688 and 1370 of this title'' after ''retired grade''.

Subsec. (b). Pub. L. 96–513, § 513(17), substituted ''September 8, 1980'' for ''the date of the enactment of the Department of Defense Authorization Act, 1981'' wherever appearing.

Pub. L. 96–342 amended subsec. (b) generally, designating existing provisions as pars. (1) and (2) and, as so amended, in par. (1) designated existing provisions as subpar. (A), as so designated, inserted provision limiting applicability to members who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added subpar. (B).

Subsec. (c). Pub. L. 96–513, § 513(17), substituted ''September 8, 1980'' for ''the date of the enactment of the Department of Defense Authorization Act, 1981'' wherever appearing.

Pub. L. 96–342 designated existing provisions as par. (1), inserted provision limiting applicability to members who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added par. (2).

1963—Subsec. (b). Pub. L. 88–132 substituted ''of'' for ''to which he would be entitled if serving on active duty in'' after ''2½ percent of the basic pay.''

1958—Pub. L. 85–861, §1(139)(A), substituted ''who serve satisfactorily under temporary appointments'' for ''temporarily appointed or promoted during World War II'' in section catchline.

Subsec. (a). Pub. L. 85–861, §1(138), struck out provisions which restricted application of section to members of the Navy or the Marine Corps who were appointed or promoted under the act of July 24, 1941, ch. 320, 55 Stat. 603.

Subsec. (b). Pub. L. 85–422 substituted ''that may be credited to him under section 1405 of this title'' for ''creditable for basic pay''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Sept. 30, 1997, see section 521(b) of this title, set out as an Effective Date note under section 688 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 922 of Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of this title.

Amendment by section 923 of Pub. L. 98–94 applicable with respect to the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 503(45) of Pub. L. 96–513 effective Sept. 15, 1981, and amendment by section 513(17) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as a note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–422 effective June 1, 1958, see section 9 of Pub. L. 85–422.

## § 6152. Emergency shore duty: advance of funds

Under such regulations as the President approves, the Secretary of the Navy may, to meet necessary expenses, advance funds to members of the naval service detailed on emergency shore duty. The funds advanced may not exceed the reasonable estimate of expenses to be incurred for which reimbursement is authorized.

(Aug. 10, 1956, ch. 1041, 70A Stat. 386.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6152 ..... | 34 U.S.C. 885. | May 22, 1928, ch. 688, 45 Stat. 712. |

The words ''public'', ''actual'', and ''by law'' are omitted as surplusage.

DELEGATION OF FUNCTIONS

For delegation to the Secretary of Defense of authority vested in the President by section 885 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.

## § 6153. Shore patrol duty: payment of expenses

An officer, midshipman, or cadet of the naval service who is assigned to shore patrol duty away from his vessel or other duty station may be paid his actual services.

(Aug. 10, 1956, ch. 1041, 70A Stat. 386.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6153 ..... | 37 U.S.C. 306 (less applicability to Coast Guard). | Oct. 12, 1949, ch. 681, §506 (less applicability to Coast Guard), 63 Stat. 828. |

## § 6154. Mileage books: commutation tickets

The Secretary of the Navy may buy such mileage books, commutation tickets, and other similar transportation tickets as he considers necessary, and he may furnish them to persons ordered to perform travel on official business. Payment for those tickets before the travel is performed is not an advance of public money within the meaning of subsections (a) and (b) of section 3324 of title 31.

(Aug. 10, 1956, ch. 1041, 70A Stat. 386; Pub. L. 97–258, §3(b)(8), Sept. 13, 1982, 96 Stat. 1063; Pub. L. 98–525, title XIV, §1405(56)(A), Oct. 19, 1984, 98 Stat. 2626.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6154 ..... | 34 U.S.C. 891. | Apr. 27, 1904, ch. 1630, 33 Stat. 403 (6th par., 2d sentence). |

The words ''to continue'' and the words ''upon their receipt in accordance with commercial usage'' are omitted as surplusage. The word ''persons'' is substituted for the words ''officers and others''.

AMENDMENTS

1984—Pub. L. 98–525 substituted ''subsections (a) and (b) of section 3324'' for ''section 3324(a) and (b)''.

1982—Pub. L. 97–258 substituted ''section 3324(a) and (b)'' for ''section 529''.

## § 6155. Uniforms, accouterments, and equipment: sale at cost

Under such regulations as the Secretary of the Navy prescribes, uniforms, accouterments, and equipment shall be sold by the United States at cost to officers and midshipmen of the naval service and, when the Coast Guard is operating as a service in the Navy, to officers of the Coast Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 386.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6155 ..... | 34 U.S.C. 537. | Jan. 12, 1919, ch. 8, 40 Stat. 1054; Aug. 4, 1949, ch. 393, §9, 63 Stat. 559. |

The words ''officers and midshipmen of the naval service'' are substituted for the words ''any officer of the Navy or any officer of the Marine Corps'' and ''any midshipman''. The words ''at the Naval Academy'' are omitted. The statute is interpreted as covering all midshipmen, including the reserve category created by subsequent statute. The word ''sold'' is substituted for the word ''furnished'' for directness of expression.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities

and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### § 6156. Uniform: sale to former members of the naval service

(a) Under such regulations as the Secretary of the Navy prescribes, exterior articles of uniform may be sold to a person who has been discharged from the naval service honorably or under honorable conditions. This section does not modify section 772 or 773 of this title.

(b) Money received from sales under this section shall be covered into the Treasury to the credit of the appropriation out of which the articles were purchased.

(Aug. 10, 1956, ch. 1041, 70A Stat. 386.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6156 ..... | 34 U.S.C. 608. | Feb. 14, 1927, ch. 134, 44 Stat. 1096. |

The word ''person'' is substituted for the words ''former members of the naval service''.

### [§ 6157. Repealed. Pub. L. 87–651, title I, § 123(b), Sept. 7, 1962, 76 Stat. 514]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 387, related to transportation of motor vehicles on permanent change of station. See section 2634 of this title.

### [§ 6158. Repealed. Pub. L. 90–235, § 7(b)(1), Jan. 2, 1968, 81 Stat. 763]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 387, exempted enlisted members of the Marine Corps, while on active duty, from personal arrest for debt or contract.

### [§ 6159. Repealed. Pub. L. 91–482, § 1(a), Oct. 21, 1970, 84 Stat. 1082]

Section, added Pub. L. 85–56, title XXII, § 2201(31)(C), June 17, 1957, 71 Stat. 161, provided for a pension to disabled naval enlisted personnel serving 20 years or more, equal to one-half the pay of enlisted man's rating at the time of his discharge.

PENSION CONTINUATION PROVISION

Section 3 of Pub. L. 91–482 provided that: ''Notwithstanding the first section of this Act [repealing sections 4539, 4623, 5981, 6159, and 6406 of this title and section 208 of Title 37], a person who is entitled to a pension under section 6159 of title 10, United States Code, on the day before the date of enactment of this Act [which was approved Oct. 21, 1970] shall continue to be entitled to that pension on and after that date of enactment.''

### § 6160. Pension to persons serving ten years

(a) Every disabled person who has served in the Navy or Marine Corps as an enlisted member or petty officer, or both, for ten or more years, and has not been discharged for misconduct, may apply to the Secretary of the Navy for aid.

(b) Upon receipt of an application under subsection (a), the Secretary of the Navy may convene a board of not less than three naval officers (one of whom shall be a surgeon) to examine into the condition of the applicant, and to recommend a suitable amount for his relief, and for a specified time. If the Secretary of the Navy approves the recommendation, he shall so certify to the Secretary of Veterans Affairs, who shall pay a pension in such amount monthly to the applicant.

(c) No naval pension under this section shall be paid at a rate in excess of the rate payable to a veteran of World War I for permanent and total non-service-connected disability, unless the applicant's disability is service-connected, in which case the naval pension payable to him shall not exceed the rate of disability compensation payable for total disability to a veteran of any war, or of peacetime service, as the case may be. In the case of any initial award of naval pension granted before July 14, 1943, where the person granted the naval pension is also entitled to pension or compensation under laws administered by the Secretary of Veterans Affairs, such naval pension shall not exceed one-fourth of such pension or compensation.

(Added Pub. L. 85–56, title XXII, § 2201(31)(C), June 17, 1957, 71 Stat. 161; amended Pub. L. 85–857, § 13(v)(4), Sept. 2, 1958, 72 Stat. 1268; Pub. L. 99–145, title XIII, § 1301(c)(1), Nov. 8, 1985, 99 Stat. 736; Pub. L. 101–189, div. A, title XVI, § 1621(a)(2), Nov. 29, 1989, 103 Stat. 1603; Pub. L. 101–510, div. A, title XIV, § 1484(j)(4), Nov. 5, 1990, 104 Stat. 1719.)

AMENDMENTS

1990—Subsec. (c). Pub. L. 101–510 substituted ''Secretary of Veterans Affairs'' for ''Veterans' Administration''.

1989—Subsec. (b). Pub. L. 101–189 substituted ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs''.

1985—Subsec. (a). Pub. L. 99–145 substituted ''enlisted member'' for ''enlisted man''.

1958—Pub. L. 85–857 limited naval pensions granted before July 14, 1943 to not more than one-fourth of any pension or compensation which the person is entitled to receive under laws administered by the Veterans' Administration.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 13(v)(4) of Pub. L. 85–857 provided that the amendment made by that section is effective as of Jan. 1, 1958.

EFFECTIVE DATE

Section effective Jan. 1, 1958, see section 2301 of Pub. L. 85–56.

### § 6161. Settlement of accounts: remission or cancellation of indebtedness of members

(a) IN GENERAL.—If the Secretary of the Navy considers it to be in the best interest of the United States, the Secretary may have remitted or cancelled any part of the indebtedness of a member of the Navy on active duty, or a member of a reserve component of the Navy in an active status, to the United States or any instrumentality of the United States incurred while the member was serving on active duty.

(b) PERIOD OF EXERCISE OF AUTHORITY.—The Secretary of the Navy may exercise the authority in subsection (a) with respect to a member—

(1) while the member is on active duty or in active status, as the case may be;

(2) if discharged from the armed forces under honorable conditions, during the one-year period beginning on the date of such discharge; or

(3) if released from active status in a reserve component, during the one-year period beginning on the date of such release.

(c) RETROACTIVE APPLICABILITY TO CERTAIN DEBTS.—The authority in subsection (a) may be exercised with respect to any debt covered by that subsection that is incurred on or after October 7, 2001.

(d) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.

(Added Pub. L. 86–511, § 1(a), June 11, 1960, 74 Stat. 207; amended Pub. L. 109–163, div. A, title VI, § 683(b)(1), Jan. 6, 2006, 119 Stat. 3322.)

AMENDMENT OF SECTION

*For termination of amendment by section 683(a)(3) of Pub. L. 109–163, see Termination Date of 2006 Amendment note below.*

AMENDMENTS

2006—Pub. L. 109–163, § 683(b)(1), (3), temporarily amended section catchline and text generally. Prior to amendment, text read as follows: ''If he considers it in the best interest of the United States, the Secretary of the Navy may have remitted or canceled any part of an enlisted member's indebtedness to the United States or any of its instrumentalities remaining unpaid before, or at the time of that member's honorable discharge.'' See Termination Date of 2006 Amendment note below.

TERMINATION DATE OF 2006 AMENDMENT

Pub. L. 109–163, div. A, title VI, § 683(b)(3), Jan. 6, 2006, 119 Stat. 3323, provided that: ''The amendments made by this subsection [amending this section and the analysis to this chapter] shall terminate on December 31, 2007. Effective on that date, section 6161 of title 10, United States Code, as in effect on the day before the date of the enactment of this Act [Jan. 6, 2006] shall be revived.''

## CHAPTER 563—HOSPITALIZATION AND MEDICAL CARE

Sec.
6201. Members of the naval service in other United States hospitals.
6202. Insane members of the naval service.
6203. Emergency medical treatment: reimbursement for expense.

### § 6201. Members of the naval service in other United States hospitals

(a) When appropriate naval hospital facilities are unavailable, the Secretary of the Navy may provide for the care and treatment of members of the naval service, entitled to treatment in naval hospitals, in other United States hospitals, if the agencies controlling the other hospitals consent. Expenses incident to such care and treatment are chargeable to the same appropriation as would be chargeable for care and treatment in a naval hospital.

(b) The deduction authorized by section 4812 of the Revised Statutes (24 U.S.C. 16) shall be made from accounts of members hospitalized under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 387; Pub. L. 85–861, § 36B(19), Sept. 2, 1958, 72 Stat. 1571; Pub. L. 96–513, title V, § 513(14), Dec. 12, 1980, 94 Stat. 2932.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6201(a), (b). | 24 U.S.C. 31. | Jan. 19, 1929, ch. 85, 45 Stat. 1090. |
| 6201(c) ..... | 34 U.S.C. 854f. | June 25, 1938, ch. 690, § 207, 52 Stat. 1180. |
| | 34 U.S.C. 854 (note). | July 9, 1952, ch. 608, § 803 (3d sentence), 66 Stat. 505. |

In subsection (a) the words ''members of the naval service'' are substituted for the words ''naval patients on the active or retired list and members of the Naval Reserve or Marine Corps Reserve''. The definition of ''member of the naval service'' makes the terms coextensive. Reference to St. Elizabeths Hospital is omitted in view of Reorganization Plan No. 3 of 1946, § 201, 60 Stat. 1098, which transferred the functions of that hospital pertaining to members of the naval service to the Secretary of the Navy. For the purposes of this section, St. Elizabeths is now in the same category as other United States hospitals.

In subsection (b) reference to R.S. 4813 (24 U.S.C. 6) is omitted because the Administrator of Veterans' Affairs held in Decision Number 571 (July 27, 1944) that R.S. 4813 was repealed by implication. Since this decision is binding on the Secretary of the Navy (see 38 U.S.C. 11a–2), the deductions from pension accounts authorized by R.S. 4813 may not be made.

In subsection (c) the words ''each retired enlisted member of the naval service'' are substituted for the words ''retired enlisted men'' and the words ''is entitled to'' are substituted for the words ''shall receive'' to conform to terminology used throughout this title. The words ''equal in value to the hospital ration'' are substituted for the words ''prescribed by law for enlisted men of the Regular Navy'' to show that the amount of the allowance is the value of the hospital ration. The words ''for each day'' are inserted to make it clear that the ration allowance is credited on a daily basis. The words ''under this section'' are substituted for the words ''in a Federal hospital in accordance with law'' because this section is the only authority for the hospitalization of members of the Fleet Reserve and Fleet Marine Corps Reserve and retired enlisted members of the naval service in Federal hospitals, other than naval hospitals, under conditions entitling the members to a ration allowance. The subsistence of a member of the Fleet Reserve or Fleet Marine Corps Reserve or a retired enlisted member of the naval service while hospitalized in naval hospitals is covered by § 6086 of this title.

AMENDMENTS

1980—Subsec. (b). Pub. L. 96–513 substituted ''section 4812 of the Revised Statutes (24 U.S.C. 16)'' for ''section 16 of title 24''.

1958—Subsec. (c). Pub. L. 85–861 repealed subsec. (c) which related to a ration allowance for members of the Fleet Reserve of the Fleet Marine Corps Reserve and retired enlisted members of the naval service.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

### § 6202. Insane members of the naval service

A member of the naval service who becomes insane may be placed in the hospital for the insane that, in the opinion of the Secretary of the Navy, is most convenient and will provide the most beneficial treatment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 387.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6202 ..... | 34 U.S.C. 595. | R.S. 1551; July 1, 1916, ch. 209, § 1, 39 Stat. 309. |

The words ''that * * * will provide the most beneficial treatment'' are substituted for the words ''best calculated to promise a restoration of reason'' for clarity. The second sentence of 34 U.S.C. 595 is omitted as superseded. It provided a method by which the Secretary of the Navy, in his discretion, could compensate other agencies for expenses involved in hospitalizing insane naval patients. Other provisions of law, principally 24 U.S.C. 31, 31 U.S.C. 686, and 37 U.S.C. 284, and regulations, principally Executive Order 10122, of April 14, 1950, establish the method currently used.

### § 6203. Emergency medical treatment: reimbursement for expense

The Secretary of the Navy shall prescribe regulations for reimbursing members of the naval service for expenses of emergency or necessary medical service, including hospitalization and medicines, when the member was in a duty status at the time he received the service and the service was not available from a Federal source. For the purpose of this section, a member on leave or liberty is in a duty status.

(Aug. 10, 1956, ch. 1041, 70A Stat. 387.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6203 ..... | 34 U.S.C. 921a. | May 4, 1948, ch. 254, § 2, 62 Stat. 208. |
| | 34 U.S.C. 921b. | May 4, 1948, ch. 254, § 3, 62 Stat. 208. |

The word ''shall'' is substituted for the words ''authorized and directed to''. The word ''members'' is substituted for the word ''persons''. The words ''from civilian sources'' are omitted as surplusage. The word ''hospitalization'' is substituted for the words ''hospital service''. In the second sentence, the word ''authorized'' is omitted as surplusage.

## CHAPTER 565—BANDS

Sec.
6221. United States Navy Band; officer in charge.
6222. United States Marine Band: composition; director; assistant director.
6223. Competition with civilian musicians prohibited.
[6224. Repealed.]

AMENDMENTS

2001—Pub. L. 107–107, div. A, title V, § 510(b), Dec. 28, 2001, 115 Stat. 1091, inserted ''; officer in charge'' after ''Navy Band'' in item 6221.

1980—Pub. L. 96–513, title V, § 513(15), Dec. 12, 1980, 94 Stat. 2932, struck out ''; leader's pay and allowances'' after ''Band'' in item 6221, and struck out item 6224 ''United States Navy Band; United States Marine Corps Band; concert tours''.

1958—Pub. L. 85–861, § 1(141), Sept. 2, 1958, 72 Stat. 1509, substituted ''United States Marine Band'' for ''United States Marine Corps Band'', and ''director; assistant director'' for ''Pay and allowances of leader and second leader'' in item 6222.

### § 6221. United States Navy Band; officer in charge

(a) There is a Navy band known as the United States Navy Band.

(b)(1) An officer of the Navy designated for limited duty under section 5589 or 5596 of this title who is serving in a grade above lieutenant may be detailed by the Secretary of the Navy as Officer in Charge of the United States Navy Band.

(2) While serving as Officer in Charge of the United States Navy Band, an officer shall hold the grade of captain if appointed to that grade by the President, by and with the advice and consent of the Senate. Such an appointment may be made notwithstanding section 5596(d) of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 388; Pub. L. 87–649, § 14c(44), Sept. 7, 1962, 76 Stat. 501; Pub. L. 96–513, title V, § 513(16), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 107–107, div. A, title V, § 510(a), Dec. 28, 2001, 115 Stat. 1091.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6221 ..... | 34 U.S.C. 596 (less 3d proviso). | Mar. 4, 1925, ch. 536, § 17 (less 3d proviso), 43 Stat. 1275. |

Subsection (a) is set forth to preserve the legal authority for the title of the band, but the first 30 words of the Act of March 4, 1925, ch. 536, § 17, 43 Stat. 1275, are omitted as executed. To conform to the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.), the word ''basic'' is inserted before ''pay'' in subsection (b) and the words ''and is entitled to be credited for pay purposes with all service which may be credited under section 202 of the Career Compensation Act of 1949 (37 U.S.C. 233)'' are substituted for the words ''*Provided*, That all service as an enlisted man in the naval service shall be counted in computing longevity increases for pay of this leader''.

The second proviso is omitted as executed.

AMENDMENTS

2001—Pub. L. 107–107 amended section catchline and text generally. Prior to amendment, text read as follows: ''There is a Navy band known as the United States Navy Band.''

1980—Pub. L. 96–513 in section catchline struck out ''; leader's pay and allowances'' after ''Band'', and in text struck out designation ''(a)''.

1962—Subsec. (b). Pub. L. 87–649 repealed subsec. (b) which related to the pay and allowances of the leader of the United States Navy Band. See sections 207 and 424 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

### § 6222. United States Marine Band: composition; director; assistant director

(a) The band of the Marine Corps shall be composed of one director, two assistant directors, and other personnel in such numbers and grades as the Secretary of the Navy determines to be necessary.

(b) The Secretary shall designate the director and assistant directors of the Marine Band from

among qualified members of the Marine Corps. Upon the recommendation of the Secretary, a member so designated may be appointed by the President, by and with the advice and consent of the Senate, to a commissioned grade in the Regular Marine Corps.

(c) The initial appointment to a commissioned grade of a member designated as director of the Marine Band shall be in the grade of captain, except that a member who, at the time of his designation, holds an appointment in a higher grade may be appointed in that higher grade, but not above lieutenant colonel. The initial appointment of a member designated as assistant director shall be in a grade below captain.

(d) The Secretary shall prescribe regulations for the promotion of members designated as director or assistant director of the Marine Band, and the President, by and with the advice and consent of the Senate, may from time to time appoint them to higher grades.

(e) Unless otherwise entitled to higher retired grade and retired pay, a member who holds, or has held, an appointment under this section is entitled, when retired, to be retired in, and with retired pay based on, the highest grade held under this section in which the Secretary determines that he served satisfactorily.

(f) The Secretary may revoke any designation as director or assistant director of the Marine Band. When a member's designation is revoked, his appointment to commissioned grade under this section terminates and he is entitled, at his option—

(1) to be discharged from the Marine Corps; or

(2) to revert to the grade and status he held at the time of his designation as director or assistant director.

(Aug. 10, 1956, ch. 1041, 70A Stat. 388; Pub. L. 85–861, § 1(140), Sept. 2, 1958, 72 Stat. 1508; Pub. L. 87–649, § 14c(45), Sept. 7, 1962, 76 Stat. 501; Pub. L. 91–197, Feb. 24, 1970, 84 Stat. 15; Pub. L. 96–513, title V, § 513(18), Dec. 12, 1980, 94 Stat. 2932.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6222 ..... | 34 U.S.C. 701 (less proviso). | Mar. 4, 1925, ch. 536, § 11 (less proviso), 43 Stat. 1274; June 29, 1946, ch. 523, § 1(c), 60 Stat. 343; Oct. 12, 1949, ch. 681, § 517(a), 63 Stat. 833. |

In subsection (b) the second sentence is substituted for the two references to the Career Compensation Act of 1949 and for the words "and with the same number of cumulative years of service".

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6222(a) ..... | 34 App.:701. | July 24, 1956, ch. 686, 70 Stat. 628. |
| 6222(b) ..... | 34 App.:701–1(a). | |
| 6222(c) ..... | 34 App.:701–1(b). | |
| 6222(d) ..... | 34 App.:701–2. | |
| 6222(e) ..... | 34 App.:701–3. | |
| 6222(f) ..... | 34 App.:701–4. | |
| 6222(g) ..... | 34 App.:701–5. | |

In subsection (a), the words "and appropriate" are omitted as covered by the word "necessary". The words "and ranks" are omitted as covered by the word "grades". The second sentence of 34 App.:701 is omitted as covered by section 6224 of this title.

In subsection (b), the words "United States" and "or the United States Marine Corps Reserve" are omitted as unnecessary in view of the definition of "Marine Corps" in section 5001(a)(2) of this title. The words "as authorized by sections 701 to 701–5 of this title" are omitted as surplusage.

In subsection (e), the words "from the United States . . . as provided by law" are omitted as surplusage.

In subsection (f), the words "a member who holds, or has held" are substituted for the words "Directors and assistant directors of the Marine Band and former directors and assistant directors who have held".

AMENDMENTS

1980—Subsecs. (e) to (g). Pub. L. 96–513 redesignated subsecs. (f) and (g) as (e) and (f), respectively.

1970—Subsec. (d). Pub. L. 91–197 struck out provision that the grade of the director be no higher than lieutenant colonel and that the grades of the assistant directors be no higher than captain.

1962—Subsec. (e). Pub. L. 87–649 repealed subsec. (e) which related to pay and allowances of members who accepted a commission under this section. See sections 207 and 424 of Title 37, Pay and Allowances of the Uniformed Services.

1958—Pub. L. 85–861 substituted "United States Marine Band" for "United States Marine Corps Band", and "director; assistant director" for "pay and allowances of leader and second leader" in section catchline.

Subsec. (a). Pub. L. 85–861 authorized one director and two assistant directors instead of one leader and one second leader.

Subsec. (b). Pub. L. 85–861 substituted provisions relating to designation of director and assistant directors for provisions which prescribed the pay and allowances of the leader and second leader.

Subsecs. (c) to (g). Pub. L. 85–861 added subsecs. (c) to (g).

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## § 6223. Competition with civilian musicians prohibited

(a) NAVY BANDS AND MEMBERS.—No Navy band, except the United States Naval Academy Band, and no member of any Navy band may receive remuneration for furnishing music outside a military installation when the furnishing of such music involves competition with local civilian musicians.

(b) MEMBERS OF THE UNITED STATES MARINE CORPS BAND.—No member of the United States Marine Corps Band, as an individual, may furnish music in competition with any civilian musician or receive remuneration for furnishing music except under special circumstances when authorized by the President.

(c) EXCEPTION FOR COMMERCIAL RECORDINGS.—(1) Notwithstanding any limitation contained in subsection (a) or (b), any Navy band or Marine Corps band designated as a special band may produce recordings for commercial sale.

(2) Amounts received as proceeds from the sale of any such recordings may be credited to applicable appropriations of the Department of the

Navy for expenses of Navy and Marine Corps bands.

(3) The Secretary of the Navy shall prescribe regulations governing the accounting of such proceeds.

(Aug. 10, 1956, ch. 1041, 70A Stat. 388; Pub. L. 101–510, div. A, title III, §327(b), Nov. 5, 1990, 104 Stat. 1532; Pub. L. 102–25, title VII, §701(j)(7), Apr. 6, 1991, 105 Stat. 116.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6223(a) ..... | [None]. | May 13, 1908, ch. 166, 35 Stat. 153 (2d par.). |
| 6223(b) ..... | 34 U.S.C. 702. | Aug. 29, 1916, ch. 417, 39 Stat. 612 (proviso of 4th par.). |

In subsection (a) the phrase ''at Annapolis, Maryland,'' is omitted as surplusage.

In subsection (b) the phrases ''or accept an engagement to furnish music, when such furnishing of music places him'', ''or musicians'', and ''accept or'' are omitted as surplusage.

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–25 substituted ''The United States Marine Corps Band'' for ''Marine Corps Bands'' in heading.

1990—Subsec. (a). Pub. L. 101–510, §327(b)(2)(A), inserted heading.

Subsec. (b). Pub. L. 101–510, §327(b)(2)(B), inserted heading.

Subsec. (c). Pub. L. 101–510, §327(b)(1), added subsec. (c).

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b) of this section delegated to Secretary of Defense, see section 1(13) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

AMERICAN REVOLUTION BICENTENNIAL; RECORDINGS FOR COMMERCIAL SALE

Authorization for Navy Band to participate in the production of a collection of recordings for commercial sale in connection with the American Revolution Bicentennial, and for Secretary of Defense to enter into contracts for the production and sale of the collection of recordings, see Pub. L. 93–571, Dec. 31, 1974, 88 Stat. 1868, set out as a note under section 3634 of this title.

### [§ 6224. Repealed. Pub. L. 87–649, § 14c(46), Sept. 7, 1962, 76 Stat. 501]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 388, provided that members of the United States Navy Band and the United States Marine Corps Band shall lose no allowances while on concert tours approved by the President. See section 425 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## CHAPTER 567—DECORATIONS AND AWARDS

Sec.
6241. Medal of honor.
6242. Navy cross.
6243. Distinguished-service medal.
6244. Silver star medal.
6245. Distinguished flying cross.
6246. Navy and Marine Corps Medal.
6247. Additional awards.
6248. Limitations of time.
6249. Limitation of honorable service.
6250. Posthumous awards.
6251. Delegation of power to award.
6252. Regulations.
6253. Replacement.
6254. Availability of appropriations.
6255. Commemorative or special medals: facsimiles and ribbons.
6256. Medal of honor: duplicate medal.
6257. Medal of honor: presentation of Medal of Honor Flag.
6258. Korea Defense Service Medal.

AMENDMENTS

2004—Pub. L. 108–375, div. A, title X, §1084(d)(30), Oct. 28, 2004, 118 Stat. 2063, renumbered item 6257 ''Korea Defense Service Medal'' as 6258.

2002—Pub. L. 107–314, div. A, title V, §543(c)(2), Dec. 2, 2002, 116 Stat. 2550, added item 6257 ''Korea Defense Service Medal''.

Pub. L. 107–248, title VIII, §8143(c)(2)(B), Oct. 23, 2002, 116 Stat. 1570, added item 6257 ''Medal of honor: presentation of Medal of Honor Flag''.

2001—Pub. L. 107–107, div. A, title V, §553(b)(1)(B), Dec. 28, 2001, 115 Stat. 1116, added item 6256.

EXTENSION OF TIME FOR AWARD OF DECORATION

For extension of time for the award of decorations, or devices in lieu of decorations, for acts or services performed in direct support of military operations in Southeast Asia between July 1, 1958, and Mar. 28, 1973, see Pub. L. 93–469, Oct. 24, 1974, 88 Stat. 1422, set out as a note preceding section 3741 of this title.

### § 6241. Medal of honor

The President may award, and present in the name of Congress, a medal of honor of appropriate design, with ribbons and appurtenances, to a person who, while a member of the naval service, distinguishes himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(Aug. 10, 1956, ch. 1041, 70A Stat. 389; Pub. L. 88–77, §2(1), July 25, 1963, 77 Stat. 93; Pub. L. 104–106, div. A, title XV, §1503(b)(2), Feb. 10, 1996, 110 Stat. 512.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6241 ..... | 34 U.S.C. 354. | Feb. 4, 1919, ch. 14, §1, 40 Stat. 1056; Aug. 7, 1942, ch. 551, §1, 56 Stat. 743. |

In subsection (a) the word ''award'' is added for clarity since the President determines the recipient, in addition to presenting the medal in the name of Congress. The words ''a member of the naval service'' are substituted for the words ''in the naval service of the United States'' for uniformity. The word ''distinguishes'' is substituted for the words ''shall * * * distinguish'' for uniformity.

In subsection (b) the words ''of the medal of honor authorized on August 8, 1942'' are substituted for the

words ''adopted pursuant to the Act approved December 21, 1861 (12 Stat. 330)'' for the reason that the 1861 Act does not establish the design, and the date of formal adoption of the design of the medal is obscure. The effect of the subsection is to continue the design recognized by 34 U.S.C. 354.

AMENDMENTS

1996—Par. (2). Pub. L. 104–106 inserted ''or'' after ''an opposing foreign force;''.

1963—Pub. L. 88–77 enlarged the authority to award the medal of honor, which was limited to those cases in which persons distinguished themselves in action involving actual conflict with an enemy, or in the line of his profession, and without detriment to the mission of his command or to the command to which attached, to permit its award for distinguished service while engaged in an action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party, and substituted the requirement that it be of appropriate design, with ribbons and appurtenances, for the requirement that it be the same as that authorized on August 8, 1942.

MERITORIOUS SERVICE MEDAL

Establishment of, see Ex. Ord. No. 11448, set out as a note preceding section 1121 of this title.

## § 6242. Navy cross

The President may award a Navy cross of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Navy or Marine Corps, distinguishes himself by extraordinary heroism not justifying the award of a medal of honor—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(Aug. 10, 1956, ch. 1041, 70A Stat. 389; Pub. L. 88–77, § 2(2), July 25, 1963, 77 Stat. 94.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6242 ..... | 34 U.S.C. 356. | Feb. 4, 1919, ch. 14, § 3, 40 Stat. 1056; renumbered § 2 and amended Aug. 7, 1942, ch. 551, § 1, 56 Stat. 743. |

The word ''award'' is substituted for the word ''present'' to cover the determination of the recipient as well as the actual presenting of the decoration. The words ''but not in the name of Congress'' are omitted, since a decoration is presented in the name of Congress only if the law so directs. The words ''Navy or the Marine Corps'' are substituted for the words ''naval service of the United States'' for clarity. To be eligible for the award, a person need not be a member of the naval service, but only serving in some capacity either with the Navy or with the Marine Corps.

AMENDMENTS

1963—Pub. L. 88–77 enlarged the authority to award the Navy cross, which was limited to those cases in which persons distinguished themselves in connection with military operations against an armed enemy, to permit its award for extraordinary heroism not justifying the award of a medal of honor, while engaged in an action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

## § 6243. Distinguished-service medal

The President may award a distinguished-service medal of appropriate design and a ribbon, together with a rosette or other device to be worn in place thereof, to any person who, while serving in any capacity with the Navy or the Marine Corps, distinguishes himself by exceptionally meritorious service to the United States in a duty of great responsibility.

(Aug. 10, 1956, ch. 1041, 70A Stat. 389.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6243 ..... | 34 U.S.C. 355. | Feb. 4, 1919, ch. 14, § 2, 40 Stat. 1056; renumbered § 3 and amended Aug. 7, 1942, ch. 551, § 1, 56 Stat. 743. |

The word ''award'' is substituted for the word ''present'' to cover the determination of the recipient as well as the actual presenting of the decoration. The words ''but not in the name of Congress'' are omitted as surplusage, since a decoration is presented in the name of Congress only if Congress so directs. The words ''Navy or the Marine Corps'' are substituted for the words ''Navy of the United States'' because the provision is interpreted as authorizing the award of the medal to persons serving with the Marine Corps as well as with the Navy. The words ''since the sixth day of April 1917 has distinguished'' are omitted as executed. The words ''United States'' are substituted for the word ''Government'' for uniformity.

## § 6244. Silver star medal

The President may award a silver star medal of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Navy or Marine Corps, is cited for gallantry in action that does not warrant a medal of honor or Navy cross—

(1) while engaged in an action against an enemy of the United States;

(2) while engaged in military operations involving conflict with an opposing foreign force; or

(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

(Aug. 10, 1956, ch. 1041, 70A Stat. 389; Pub. L. 88–77, § 2(3), July 25, 1963, 77 Stat. 94.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6244 ..... | 34 U.S.C. 356a. | Feb. 4, 1919, ch. 14, § 4; added Aug. 7, 1942, ch. 551, § 1, 56 Stat. 743. |

The word ''award'' is substituted for the word ''present'' to cover the determination of the recipient as well as the actual presenting of the decoration. The

words ''but not in the name of Congress'' are omitted as surplusage, since a decoration is presented in the name of Congress only if the law so directs. The words ''Navy or the Marine Corps'' are substituted for the words ''Navy of the United States'' because the provision is interpreted as authorizing the award of the medal to persons serving with the Marine Corps. The words ''since December 6, 1941, has distinguished himself'' are omitted as executed.

AMENDMENTS

1963—Pub. L. 88–77 enlarged the authority to award a silver star medal, which was limited to those cases in which persons distinguished themselves in action, to permit its award for gallantry while engaged in an action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

### § 6245. Distinguished flying cross

The President may award a distinguished flying cross of appropriate design with accompanying ribbon to any person who, while serving in any capacity with the Navy or the Marine Corps, distinguishes himself by heroism or extraordinary achievement while participating in an aerial flight.

(Aug. 10, 1956, ch. 1041, 70A Stat. 390.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6245 ..... | 34 U.S.C. 364a (1st sentence, less 1st 9 words, and less 2d and 3d sentences). | July 2, 1926, ch. 721, § 12 (1st sentence, less 1st 9 words, and less 2d and 3d sentences), 44 Stat. 789; July 30, 1937, ch. 545, § 4, 50 Stat. 549. |

The word ''award'' is substituted for the word ''present'' to cover the determination of the recipient as well as the actual presenting of the decoration. The words ''but not in the name of Congress'' are omitted as surplusage, since a decoration is presented in the name of Congress only if the law so directs. The proviso of the first sentence of 34 U.S.C. 364a is omitted as executed. The words ''Navy or the Marine Corps'' are substituted for the words ''United States Navy'' because the provision is interpreted as authorizing the award of the decoration to persons serving with the Marine Corps as well as with the Navy. The words ''and notwithstanding the provisions of section 14 of this Act,'' which are not now contained in title 34, are omitted as unnecessary. The words ''since the 6th day of April, 1917, has distinguished, or who, after July 2, 1926,'' are omitted as executed.

### § 6246. Navy and Marine Corps Medal

(a) The President may award a medal called the ''Navy and Marine Corps Medal'' of appropriate design with accompanying ribbon, together with a rosette or other device to be worn in place thereof—

(1) to any person who, while serving in any capacity with the Navy or the Marine Corps, distinguishes himself by heroism not involving actual conflict with an enemy; or

(2) to any person to whom the Secretary of the Navy, before August 7, 1942, awarded a letter of commendation for heroism, and who applies for that medal, regardless of the date of the act of heroism.

(b) The authority in subsection (a) includes authority to award the medal to a member of the Ready Reserve who was not in a duty status defined in section 101(d) of this title when the member distinguished himself by heroism.

(Aug. 10, 1956, ch. 1041, 70A Stat. 390; Pub. L. 105–85, div. A, title V, § 574(b), Nov. 18, 1997, 111 Stat. 1758.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6246 ..... | 34 U.S.C. 356b. | Feb. 4, 1919, ch. 14, § 5; added Aug. 7, 1942, ch. 551, § 1, 56 Stat. 744. |

The word ''award'' is substituted for the word ''present'' to cover the determination of the recipient as well as the actual presenting of the award. The words ''but not in the name of Congress'' are omitted since a decoration is presented in the name of Congress only if the law so directs. The words ''including the Naval Reserve and Marine Corps Reserve'' are omitted as covered by the definitions of the Navy and the Marine Corps. The last sentence, relating to additional pay, is omitted for the reason that, under the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.), there is no additional pay authorized for any medal. The words ''since December 6, 1941'' are omitted as executed. The words ''or herself'' are omitted as covered by the rules of construction in 1 U.S.C. 1.

AMENDMENTS

1997—Pub. L. 105–85 designated existing provisions as subsec. (a) and added subsec. (b).

### § 6247. Additional awards

Not more than one medal of honor, Navy cross, distinguished-service medal, silver star medal, distinguished flying cross, or Navy and Marine Corps Medal may be awarded to a person. However, for each succeeding act or service that would otherwise justify the award of such a medal or cross, the President may award a suitable bar, emblem, or insignia to be worn with the decoration and corresponding rosette or other device.

(Aug. 10, 1956, ch. 1041, 70A Stat. 390.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6247 ..... | 34 U.S.C. 358. | Feb. 4, 1919, ch. 14, § 5, 40 Stat. 1056; renumbered § 7 and amended Aug. 7, 1942, ch. 551, § 1, 56 Stat. 744. |
| | 34 U.S.C. 364a (2d sentence). | July 2, 1926, ch. 721, § 12 (2d sentence), 44 Stat. 789; July 30, 1937, ch. 545, § 4, 50 Stat. 549. |

The word ''awarded'' is substituted for the word ''issued'' for uniformity. The words ''that would otherwise justify'' are substituted for the words ''sufficient to justify'' for clarity. The word ''service'' is substituted for the word ''achievement'' for uniformity. The words ''as he shall direct'' are omitted as surplusage.

### § 6248. Limitations of time

(a) Except as provided in section 6246 of this title or subsection (b), no medal of honor, Navy cross, distinguished-service medal, silver star medal, Navy and Marine Corps Medal, or bar, emblem, or insignia in place thereof may be awarded to a person unless—

(1) the award is made within five years after the date of the act or service justifying the award; and

(2) a statement setting forth the act or distinguished service and recommending official recognition of it was made by his superior through official channels within three years from the date of that act or service.

(b) If the Secretary of the Navy determines that—

(1) a statement setting forth the act or distinguished service and recommending official recognition of it was made by the person's superior through official channels within three years from the date of that act or service and was supported by sufficient evidence within that time; and

(2) no award was made, because the statement was lost or through inadvertence the recommendation was not acted on;

a medal of honor, Navy cross, distinguished-service medal, silver star medal, Navy and Marine Corps Medal, or bar, emblem, or insignia in place thereof, as the case may be, may be awarded to the person within two years after the date of that determination.

(Aug. 10, 1956, ch. 1041, 70A Stat. 390; Pub. L. 86–582, § 1(2), July 5, 1960, 74 Stat. 320.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6248 ..... | 34 U.S.C. 360. | Feb. 4, 1919, ch. 14, § 7, 40 Stat. 1056; renumbered § 9 and amended Aug. 7, 1942, ch. 551, § 1, 56 Stat. 744. |

The words ''Except as provided in section 6246 of this title'' are substituted for the words ''That except as otherwise prescribed herein'' to identify the only exception. The words ''may be awarded to a person'' are substituted for the words ''shall be issued to any person'' for uniformity. The words ''specific'', ''or report distinctly'', and ''at the time of'' are omitted as surplusage. The words ''bar, emblem, or insignia'' are substituted for the words ''or bar or other suitable emblem or insignia'' for uniformity. The words ''from the date of that act or service'' are substituted for the word ''thereafter''.

AMENDMENTS

1960—Pub. L. 86–582 designated existing provisions as subsec. (a), inserted ''or subsection (b)'' after ''title'', and added subsec. (b).

## § 6249. Limitation of honorable service

No medal, cross, or bar, or associated emblem or insignia may be awarded or presented to any person or to his representative if his service after he distinguished himself has not been honorable.

(Aug. 10, 1956, ch. 1041, 70A Stat. 390.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6249 ..... | 34 U.S.C. 362. | Feb. 4, 1919, ch. 14, § 8 (1st proviso), 40 Stat. 1057; renumbered § 10 and amended Aug. 7, 1942, ch. 551, § 1, 56 Stat. 745. |
| | 34 U.S.C. 364a (last 31 words of 3d sentence). | July 2, 1926, ch. 721, § 12 (last 31 words of 3d sentence), 44 Stat. 789, July 30, 1937, ch. 545, § 4, 50 Stat. 549. |

The word ''associated'' is substituted for the word ''other'' to relate the medal or cross to its emblem or insignia. The word ''entire'' is omitted as surplusage.

## § 6250. Posthumous awards

If a person who distinguishes himself dies before an award to which he is entitled is made, the award may be made and the medal, cross, or bar, or associated emblem or insignia may be presented, within five years from the date of the act or service justifying the award, to his representative as designated by the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 390.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6250 ..... | 34 U.S.C. 363. | Feb. 4, 1919, ch. 14, § 8 (less 1st and 2d provisos), 40 Stat. 1057; renumbered § 10 and amended Aug. 7, 1942, ch. 551, § 1, 56 Stat. 745. |
| | 34 U.S.C. 364a (3d sentence, less last 31 words). | July 2, 1926, ch. 721, § 12 (3d sentence, less last 31 words), 44 Stat. 789; July 30, 1937, ch. 545, § 4, 50 Stat. 549. |

The word ''associated'' is substituted for the word ''other'' to relate the medal or cross to its emblem or insignia.

## § 6251. Delegation of power to award

The President may delegate, under such conditions as he prescribes, to flag and general officers who are commanders-in-chief or commanding on important independent duty, his authority to award the Navy cross, the distinguished-service medal, the silver star medal, or the Navy and Marine Corps Medal.

(Aug. 10, 1956, ch. 1041, 70A Stat. 391.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6251 ..... | 34 U.S.C. 364 (less 10th, and last 47 words). | Feb. 4, 1919, ch. 14, § 9 (less applicability to regulations), 40 Stat. 1057; renumbered § 11 and amended Aug. 7, 1942, ch. 551, § 1, 56 Stat. 745. |

The term ''flag officers'' is used generically in 34 U.S.C. 364. Officers of the Marine Corps who meet the duty requirements, if in the equivalent grades, are, therefore, within its terms and the authority to make the awards has been delegated to such officers.

## § 6252. Regulations

The President may prescribe regulations for the administration of the preceding sections of this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 391.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6252 ..... | 34 U.S.C. 364 (10th, and last 47 words). | Feb. 4, 1919, ch. 14, § 9 (as applicable to regulations), 40 Stat. 1057; renumbered § 11 and amended Aug. 7, 1942, ch. 551, § 1, 56 Stat. 745. |
| | 34 U.S.C. 364a (1st 9 words of 1st sentence). | July 2, 1926, ch. 721, § 12 (1st 9 words of 1st sentence), 44 Stat. 789; July 30, 1937, ch. 545, § 4, 50 Stat. 549. |

The words ''further'', ''from time to time any and all rules'', ''orders which he shall deem necessary'', and ''to execute full purpose and intention thereof'' are omitted as surplusage.

## § 6253. Replacement

The Secretary of the Navy may replace without charge any medal of honor, Navy cross, distinguished-service medal, silver star medal, or Navy and Marine Corps Medal, or any associated bar, emblem, or insignia awarded under this chapter that is stolen, lost, or destroyed or becomes unfit for use without fault or neglect on the part of the person to whom it was awarded.

(Aug. 10, 1956, ch. 1041, 70A Stat. 391; Pub. L. 107–107, div. A, title V, § 553(b)(2), Dec. 28, 2001, 115 Stat. 1116.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6253 ..... | 34 U.S.C. 359 (proviso). | Feb. 4, 1919, ch. 14, § 6 (proviso), 40 Stat. 1056; renumbered § 8 and amended Aug. 7, 1942, ch. 551, § 1, 56 Stat. 744. |

The words ''Secretary of the Navy may replace'' are substituted for the words ''*Provided*, That such replacement shall be made only in those cases where''.

AMENDMENTS

2001—Pub. L. 107–107 substituted ''stolen, lost, or destroyed'' for ''lost or destroyed''.

## § 6254. Availability of appropriations

The Secretary of the Navy may spend from appropriations for the pay of the Navy or the Marine Corps, as appropriate, amounts necessary to provide and replace medals of honor, Navy crosses, distinguished-service medals, silver star medals, and Navy and Marine Corps Medals, and associated bars, emblems, and insignia.

(Aug. 10, 1956, ch. 1041, 70A Stat. 391.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6254 ..... | 34 U.S.C. 359 (less proviso). | Feb. 4, 1919, ch. 14, § 6 (less proviso), 40 Stat. 1056; renumbered § 8 and amended Aug. 7, 1942, ch. 551, § 1, 56 Stat. 744. |

The words ''the appropriations for the pay of the Navy or the Marine Corps, as appropriate'', are substituted for the words ''the appropriation 'Pay, subsistence, and transportation of naval personnel' '', to identify by a general description, rather than by the specific appropriation title, the appropriation authorized to be used. Specific appropriation titles vary from one appropriation act to the next. The permanent authority contained in 34 U.S.C. 359 for the Secretary of the Navy to use appropriations available for the pay of the Navy and the Marine Corps is not affected by a change in the titles of those appropriations nor is it affected by a specific authorization in an appropriation act to use, during the life of the act, a different type of appropriation.

## § 6255. Commemorative or special medals: facsimiles and ribbons

Under regulations prescribed by the Secretary of the Navy, members of the naval service may wear, in place of commemorative or special medals awarded to them, miniature facsimiles of such medals and ribbons symbolic of the awards.

(Aug. 10, 1956, ch. 1041, 70A Stat. 391.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6255 ..... | 34 U.S.C. 358a. | Apr. 25, 1935, ch. 82, 49 Stat. 162. |

The words ''members of the naval service may'' are substituted for the words ''That authority is hereby granted to personnel of the Navy and Marine Corps'' for clarity.

## § 6256. Medal of honor: duplicate medal

A person awarded a medal of honor shall, upon written application of that person, be issued, without charge, one duplicate medal of honor with ribbons and appurtenances. Such duplicate medal of honor shall be marked, in such manner as the Secretary of the Navy may determine, as a duplicate or for display purposes only.

(Added Pub. L. 107–107, div. A, title V, § 553(b)(1)(A), Dec. 28, 2001, 115 Stat. 1116.)

## § 6257. Medal of honor: presentation of Medal of Honor Flag

The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 6241 of this title after October 23, 2002. Presentation of the flag shall be made at the same time as the presentation of the medal under section 6241 or 6250 of this title.

(Added Pub. L. 107–248, title VIII, § 8143(c)(2)(A), Oct. 23, 2002, 116 Stat. 1570; amended Pub. L. 107–314, div. A, title X, § 1062(a)(16), Dec. 2, 2002, 116 Stat. 2650.)

CODIFICATION

Another section 6257 was renumbered section 6258 of this title.

AMENDMENTS

2002—Pub. L. 107–314 substituted ''October 23, 2002'' for ''the date of the enactment of this section''.

## § 6258. Korea Defense Service Medal

(a) The Secretary of the Navy shall issue a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Navy or Marine Corps served in the Republic of Korea or the waters adjacent

thereto during the KDSM eligibility period and met the service requirements for the award of that medal prescribed under subsection (c).

(b) In this section, the term ''KDSM eligibility period'' means the period beginning on July 28, 1954, and ending on such date after the date of the enactment of this section as may be determined by the Secretary of Defense to be appropriate for terminating eligibility for the Korea Defense Service Medal.

(c) The Secretary of the Navy shall prescribe service requirements for eligibility for the Korea Defense Service Medal. Those requirements shall not be more stringent than the service requirements for award of the Armed Forces Expeditionary Medal for instances in which the award of that medal is authorized.

(Added Pub. L. 107–314, div. A, title V, § 543(c)(1), Dec. 2, 2002, 116 Stat. 2549, § 6257; renumbered § 6258, Pub. L. 108–375, div. A, title X, § 1084(d)(30), Oct. 28, 2004, 118 Stat. 2063.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (b), is the date of enactment of Pub. L. 107–314, which was approved Dec. 2, 2002.

AMENDMENTS

2004—Pub. L. 108–375 renumbered section 6257 of this title as this section.

## CHAPTER 569—DISCHARGE OF ENLISTED MEMBERS

Sec.
[6291. Repealed.]
6292. Minors enlisted upon false statement of age.
[6293 to 6298. Repealed.]

AMENDMENTS

1980—Pub. L. 96–513, title V, § 503(46), Dec. 12, 1980, 94 Stat. 2914, struck out item 6294 ''Women in the Regular Navy and Regular Marine Corps: termination of enlistment''.

1968—Pub. L. 90–235, §§ 3(a)(4), (b)(4), 8(4), Jan. 2, 1968, 81 Stat. 758, 764, struck out item 6291 ''Honorable discharges'', item 6293 ''Minors enlisted without consent of parent or guardian'', item 6295 ''Regular Navy: early discharge'', item 6296 ''Furlough without pay'', item 6297 ''Disposition of uniform; clothing allowance; emergency funds'', and item 6298 ''Authority to live at a receiving station after honorable discharge''.

### [§ 6291. Repealed. Pub. L. 90–235, § 3(b)(1), Jan. 2, 1968, 81 Stat. 758]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 391, provided for honorable discharges for enlisted members of the naval service.

### § 6292. Minors enlisted upon false statement of age

(a) The Secretary of the Navy, under regulations prescribed by him, may discharge or release from the naval service, with pay and allowances and form of discharge certificate appropriate for his service after enlistment, any enlisted member who, as the result of a false statement of age on his application for enlistment, was enlisted while under the minimum statutory or administrative age limit. A member so discharged or released is entitled to transportation in kind and subsistence from the place of discharge to his home.

(b) Appropriations available for pay and allowances, subsistence, and transportation of enlisted members of the naval service are available for payments under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 391.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6292(a) ..... | 34 U.S.C. 900a. | Sept. 24, 1945, ch. 385, § 1, 59 Stat. 536. |
| 6292(b) ..... | 34 U.S.C. 900a (note). | Sept. 24, 1945, ch. 385, § 3, 59 Stat. 537. |

The word ''member'' is substituted for the word ''person'' and the words ''naval service'' are substituted for the words ''Navy, Marine Corps, and the Reserve components thereof''. The words ''form of'' are added for clarity. Reference to the date ''September 24, 1945'' is omitted as unnecessary. The words ''is entitled to'' are substituted for the words ''shall be furnished'' for uniformity. The decision of the Comptroller General of December 23, 1949 (B–91297), has not been overlooked. That decision, without passing on a case in which the point was involved, indicated that the transportation entitlement in 34 U.S.C. 900a might be impliedly repealed by the Career Compensation Act of 1949. The editors of the United States Code Annotated, apparently on the basis of this decision, have omitted 34 U.S.C.A. 900a from the 1954 pocket part. A conclusion that the section is repealed, however, defeats the specific purpose of the provision, which, as indicated in the legislative hearings, was to insure that underage dischargees would be transported home and not simply released at the place of discharge.

### [§ 6293. Repealed. Pub. L. 90–235, § 3(a)(2), Jan. 2, 1968, 81 Stat. 757]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 392, provided for discharges for minors enlisted in the naval service or in the Regular Navy as seamen, seamen apprentices or seamen recruits. See section 1170 of this title.

### [§ 6294. Repealed. Pub. L. 96–513, title III, § 373(g), Dec. 12, 1980, 94 Stat. 2903]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 392, authorized Secretary of Navy to terminate enlistment of and discharge any enlisted woman in Regular Navy or Regular Marine Corps.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§§ 6295 to 6298. Repealed. Pub. L. 90–235, §§ 3(a)(2), (b)(1), 8(3), Jan. 2, 1968, 81 Stat. 757, 758, 764]

Section 6295, act Aug. 10, 1956, ch. 1041, 70A Stat. 392, provided for early discharges from the Regular Navy. See section 1171 of this title.

Section 6296, act Aug. 10, 1956, ch. 1041, 70A Stat. 392, provided for furlough without pay for any enlisted member of the Regular Navy for the unexpired term of his enlistment.

Section 6297, act Aug. 10, 1956, ch. 1041, 70A Stat. 393, provided for disposition of uniforms of enlisted members of the naval service who were discharged and for disposition of uniforms of and clothing allowance and emergency funds for enlisted members of the naval service who were discharged other than honorably.

Section 6298, act Aug. 10, 1956, ch. 1041, 70A Stat. 393, authorized Secretary of Navy to permit any person honorably discharged from the naval service to live at any naval receiving station while he was eligible for a reenlistment bonus.

## CHAPTER 571—VOLUNTARY RETIREMENT

Sec.
6321. Officers: 40 years.
6322. Officers: 30 years.
6323. Officers: 20 years.
6324. Officers: creditable service.
6325. Officers: retired grade and pay.
6326. Enlisted members: 30 years.
6327. Officers and enlisted members of the Navy Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay.
6328. Computation of years of service: voluntary retirement.
6329. Officers not to be retired for misconduct.
6330. Enlisted members: transfer to Fleet Reserve and Fleet Marine Corps Reserve; retainer pay.
6331. Members of the Fleet Reserve and Fleet Marine Corps Reserve: transfer to the retired list; retired pay.
6332. Conclusiveness of transfers.
6333. Computation of retired and retainer pay.
6334. Higher grade after 30 years of service: warrant officers and enlisted members.
6335. Restoration to former grade: warrant officers and enlisted members.
6336. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member's misconduct.

AMENDMENTS

2006—Pub. L. 109–163, div. A, title V, § 515(b)(4)(B), Jan. 6, 2006, 119 Stat. 3235, substituted ''Navy Reserve'' for ''Naval Reserve'' in item 6327.

1996—Pub. L. 104–201, div. A, title V, § 532(b)(2), Sept. 23, 1996, 110 Stat. 2519, added item 6336.

Pub. L. 104–106, div. A, title V, § 561(d)(3)(B), Feb. 10, 1996, 110 Stat. 323, added item 6328.

1987—Pub. L. 100–180, div. A, title V, § 512(e)(2), Dec. 4, 1987, 101 Stat. 1091, added items 6334 and 6335.

1986—Pub. L. 99–348, title III, § 304(b)(3), July 1, 1986, 100 Stat. 704, struck out item 6328 ''Treatment of fractions of years of service in computing retired pay'' and substituted ''Computation of'' for ''Treatment of fractions of dollar amounts in computing'' in item 6333.

1983—Pub. L. 98–94, title IX, § 922(a)(10)(B), Sept. 24, 1983, 97 Stat. 641, added item 6333.

1967—Pub. L. 90–130, § 1(23)(B), Nov. 8, 1967, 81 Stat. 380, struck out ''Nurse Corps'' before ''Officers'' in item 6324.

### § 6321. Officers: 40 years

(a) Each officer of the Regular Navy or the Regular Marine Corps holding a permanent appointment in the grade of warrant officer, W–1, or above who applies for retirement after completing 40 or more years of active service shall be retired by the Secretary of the Navy.

(b) For the purpose of this section, an officer's years of active service are computed by adding all his active service in the armed forces.

(Aug. 10, 1956, ch. 1041, 70A Stat. 393.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6321 ..... | 34 U.S.C. 381. | R.S. 1443; June 17, 1948, ch. 497, § 1(a), 62 Stat. 477. |
| | 34 U.S.C. 879 (less applicability to enlisted men). | June 4, 1920, ch. 228, § 3 (3d proviso, less applicability to enlisted men), 41 Stat. 835. |
| | 34 U.S.C. 626–1(a) (1st sentence). | Aug. 7, 1947, ch. 512, § 314(a) (1st sentence), 61 Stat. 863; May 5, 1954, ch. 180, § 205, 68 Stat. 68. |

In subsection (a) the words ''Regular'' and ''holding a permanent appointment in the grade of warrant officer, W–1, or above'' are inserted for clarity. The word ''shall'' is substituted for the word ''may'' because the Attorney General has construed R.S. 1443 as conferring a right to retirement upon officers who apply for it after 40 years of service (30 Op. Atty. Gen. 406). The words ''from active service'' are omitted as surplusage. The words ''after completing 40 or more years of active service'' are substituted for the words ''has been forty years in the service of the United States'' for clarity.

In subsection (b) the accepted meaning of the words ''service of the United States'' is spelled out for clarity. They have been consistently interpreted to include active service in the armed forces as defined in this title.

### § 6322. Officers: 30 years

(a) An officer of the Regular Navy or the Regular Marine Corps holding a permanent appointment in the grade of warrant officer, W–1, or above who applies for retirement after completing 30 or more years of active service may, in the discretion of the Secretary of the Navy, be retired.

(b) For the purpose of this section, an officer's years of active service are computed by adding all his active service in the armed forces.

(Aug. 10, 1956, ch. 1041, 70A Stat. 394; Pub. L. 96–342, title VIII, § 813(d)(1), Sept. 8, 1980, 94 Stat. 1104; Pub. L. 96–513, § 513(17), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 99–348, title II, § 203(b)(1), July 1, 1986, 100 Stat. 696.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6322 ..... | 34 U.S.C. 383. | May 13, 1908, ch. 166, 35 Stat. 128 (8th sentence, less proviso); June 17, 1948, ch. 497, § 1(d), 62 Stat. 477. |
| | 34 U.S.C. 879 (less applicability to enlisted men). | June 4, 1920, ch. 228, § 3 (3d proviso, less applicability to enlisted men), 41 Stat. 835. |
| | 34 U.S.C. 626–1(a) (1st sentence). | Aug. 7, 1947, ch. 512, § 314(a) (1st sentence), 61 Stat. 863; May 5, 1954, ch. 180, § 205, 68 Stat. 68. |

In subsection (a) the words ''Regular'' and ''holding a permanent appointment in the grade of warrant officer, W–1, or above'' are inserted for clarity. The words ''after completing 30 or more years of active service'' are substituted for the words ''has been thirty years in the service'' for clarity. The words ''retired from active service'' are omitted as surplusage.

Subsection (b) is added to clarify the word ''service''. It has been consistently interpreted to include active service in the armed forces as defined in this title.

In subsection (c) the words ''is entitled to retired pay at the rate of 75 percent of the highest basic pay of the grade in which retired'' are substituted for the words ''with three-fourths of the highest pay of his grade'' for clarity and uniformity of expression.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–348 struck out subsec. (c) which provided that each officer retired under this section be entitled to retired pay, in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, at the rate of 75 percent of the highest basic pay of the grade in which retired, and in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, at the rate of 75 percent of the monthly retired pay base computed under section 1407(d).

1980—Subsec. (c). Pub. L. 96–513 substituted ''September 8, 1980'' for ''the date of the enactment of the Department of Defense Authorization Act, 1981'' wherever appearing.

Pub. L. 96–342 designated existing provisions as par. (1), inserted provision limiting applicability to officers who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added par. (2).

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

### § 6323. Officers: 20 years

(a)(1) An officer of the Navy or the Marine Corps who applies for retirement after completing more than 20 years of active service, of which at least 10 years was service as a commissioned officer, may, in the discretion of the President, be retired on the first day of any month designated by the President.

(2)(A) The Secretary of Defense may authorize the Secretary of the Navy, during the period specified in subparagraph (B),,[1] to reduce the requirement under paragraph (1) for at least 10 years of active service as a commissioned officer to a period (determined by the Secretary) of not less than eight years.

(B) The period specified in this subparagraph is the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on December 31, 2008.

(b) For the purposes of this section—

(1) an officer's years of active service are computed by adding all his active service in the armed forces; and

(2) his years of service as a commissioned officer are computed by adding all his active service in the armed forces under permanent or temporary appointments in grades above warrant officer, W–1.

(c) The retired grade of an officer retired under this section is the grade determined under section 1370 of this title.

(d) A warrant officer who retires under this section may elect to be placed on the retired list in the highest grade and with the highest retired pay to which he is entitled under any provision of this title. If the pay of that highest grade is less than the pay of any warrant grade satisfactorily held by him on active duty, his retired pay shall be based on the higher pay.

(e) Unless otherwise entitled to higher pay, an officer retired under this section is entitled to retired pay computed under section 6333 of this title.

(f) Officers of the Navy Reserve and the Marine Corps Reserve who were transferred to the Retired Reserve from an honorary retired list under section 213(b) of the Armed Forces Reserve Act of 1952 (66 Stat. 485), or are transferred to the Retired Reserve under section 6327 of this title, may be retired under this section, notwithstanding their retired status, if they are otherwise eligible.

(Aug. 10, 1956, ch. 1041, 70A Stat. 394; Pub. L. 85–861, § 1(142), Sept. 2, 1958, 72 Stat. 1509; Pub. L. 88–132, § 5(h)(4), Oct. 2, 1963, 77 Stat. 214; Pub. L. 96–342, title VIII, § 813(d)(2), Sept. 8, 1980, 94 Stat. 1104; Pub. L. 96–513, title V, §§ 503(47)(A), 513(17), Dec. 12, 1980, 94 Stat. 2914, 2932; Pub. L. 99–348, title II, § 203(b)(2), July 1, 1986, 100 Stat. 696; Pub. L. 101–510, div. A, title V, § 523(b), Nov. 5, 1990, 104 Stat. 1562; Pub. L. 103–160, div. A, title V, § 561(c), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 105–261, div. A, title V, § 561(e), Oct. 17, 1998, 112 Stat. 2025; Pub. L. 106–398, § 1 [[div. A], title V, § 571(e)], Oct. 30, 2000, 114 Stat. 1654, 1654A–134; Pub. L. 109–163, div. A, title V, §§ 502(b), 515(b)(1)(H), Jan. 6, 2006, 119 Stat. 3225, 3233.)

[1] So in original.

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6323(a), (b). | 34 U.S.C. 410b. | Feb. 21, 1946, ch. 34, § 6, 60 Stat. 27. |
| 6323(c) ..... | 34 U.S.C. 410b–1. | Apr. 14, 1949, ch. 52, § 1 (less applicability to Act of June 29, 1948, ch. 708, § 301(b), 62 Stat. 1087), 63 Stat. 47. |

In subsection (b) the words ''or the Reserve Components thereof'' are omitted because the terms ''Navy'', ''Marine Corps'', and ''Coast Guard'' include the reserve components. The words ''including active duty for training'' are omitted because the term ''active duty'' is defined in this title as including training duty.

The Act of April 14, 1949 (34 U.S.C. 410b–1), extending the benefits of 34 U.S.C. 410b to officers on the honorary retired lists, was enacted because the Comptroller General had held that these officers, being already in a retired status, could not be retired under 34 U.S.C. 410b (U.S. Code Congressional Service, 1949, p. 1179). The provisions of the Naval Reserve Act of 1938 relating to the honorary retired lists were repealed by § 803 of the Armed Forces Reserve Act of 1952, but insofar as they provided for retirement and retired pay they were reenacted, for a period of 20 years, in § 413 of that act (50 U.S.C. 1052). Persons on the honorary retired lists when the Armed Forces Reserve Act of 1952 was passed were transferred to the appropriate Retired Reserve under § 213 of the Act. Persons qualifying for retirement under § 413 are likewise placed in the Retired Reserve. The purpose of Congress in enacting § 413 was to preserve the accrued rights of persons who were members of reserve components on January 1, 1953, the effective date of the Act (U.S. Code Congressional and Administrative News, 1952, p. 3584). One of their rights was the right to apply for retirement under 34 U.S.C. 410b upon completion of the required service, notwithstanding the fact that, before qualifying for retirement under that section, they had already acquired a retired status. Subsection (c) is worded accordingly.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6323(a), (b). | 34 App.:410b. | Aug. 4, 1955, ch. 553, § 1, 69 Stat. 493; Aug. 9, 1955, ch. 678, § 1(a), (b), 69 Stat. 614. |
| 6323(c), (e) | [No source]. | [No source]. |
| 6323(d) ..... | [No source]. | [No source]. |
| 6323(f) ..... | [No source]. | [No source]. |

In subsection (b), the words ''armed forces'' are substituted for the words ''Navy, Marine Corps, Army, Air Force, or Coast Guard, or the Reserve Components thereof'' because ''armed forces'', as defined in this title, is a collective term for these elements.

Subsections (c) and (e) state rules, formerly stated in section 6325, with respect to officers retired under this section.

Subsection (d) states a rule, formerly stated in section 6325, with respect to warrant officers retired under this section.

In subsections (c) and (e), the words ''Unless otherwise entitled to a higher grade'' and ''Unless otherwise entitled to higher pay'' are substituted for 34 App.:410c(b).

In subsection (d), the second and third provisos of 34 App.:410b, relating to officers whose basic pay is not based on years of service, is omitted as obsolete. Under the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.), the basic pay of all officers is based on years of service. The subsection is worded to conform to the terminology of the Career Compensation Act of 1949 and to make clear the fact that the amount of retired pay is not permanently fixed at the time of retirement but is subject to change when rates of basic pay are changed, as provided in 34 App.:410q.

Subsection (f) was formerly subsection (c).

REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2006, referred to in subsec. (a)(2)(B), is the date of enactment of Pub. L. 109–163, which was approved Jan. 6, 2006.

Section 213(b) of the Armed Forces Reserve Act of 1952 (66 Stat. 485), referred to in subsec. (f), was classified to section 933 of Title 50, War and National Defense, and was repealed by section 53 of act Aug. 10, 1956.

AMENDMENTS

2006—Subsec. (a)(2). Pub. L. 109–163, § 502(b), designated existing provisions as subpar. (A), substituted ''during the period specified in subparagraph (B),'' for ''during the period beginning on October 1, 1990, and ending on December 31, 2001'', and added subpar. (B).

Subsec. (f). Pub. L. 109–163, § 515(b)(1)(H), substituted ''Navy Reserve'' for ''Naval Reserve''.

2000—Subsec. (a)(2). Pub. L. 106–398 substituted ''December 31, 2001'' for ''September 30, 2001''.

1998—Subsec. (a)(2). Pub. L. 105–261 substituted ''during the period beginning on October 1, 1990, and ending on September 30, 2001'' for ''during the nine-year period beginning on October 1, 1990''.

1993—Subsec. (a)(2). Pub. L. 103–160 substituted ''nine-year period'' for ''five-year period''.

1990—Subsec. (a). Pub. L. 101–510 designated existing provisions as par. (1) and added par. (2).

1986—Subsec. (e). Pub. L. 99–348 substituted provision that retired pay be computed under section 6333 for provision that retired pay, in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 2½ percent of the basic pay of the grade in which retired, or in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d), which rates were to be multiplied by the number of years of service credited under section 1405, but such retired pay was not to be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay was based.

1980—Subsec. (c). Pub. L. 96–513, § 503(47)(A), substituted provisions that the retired grade of an officer retired under this section is the grade determined under section 1370 of this title for provisions that had set the grade of officers retired under this section at the highest grade, permanent or temporary, in which he had served satisfactorily on active duty as determined by the Secretary of the Navy; or, if the Secretary determined that he had not served satisfactorily in his highest temporary grade, in the next lower grade in which he had served, but not lower than his permanent grade.

Subsec. (e). Pub. L. 96–513, § 513(17), substituted ''September 8, 1980'' for ''the date of the enactment of the Department of Defense Authorization Act, 1981'' wherever appearing.

Pub. L. 96–342 designated existing provisions as par. (1), inserted provision limiting applicability to officers who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added par. (2).

1963—Subsec. (e). Pub. L. 88–132 substituted ''of'' for ''to which he would be entitled if serving on active duty in'' after ''2½ percent of the basic pay''.

1958—Subsec. (a). Pub. L. 85–861 substituted ''first day of any month'' for ''first day of the month''.

Subsec. (b). Pub. L. 85–861 inserted provisions in cl. (2).

Subsecs. (c) to (f). Pub. L. 85–861 added subsecs. (c) to (e) and redesignated former subsec. (c) as (f).

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 503(47) of Pub. L. 96–513 effective Sept. 15, 1981, and amendment by section 513(17) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as a note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (a) to approve application of an officer of Navy or Marine Corps for retirement after completion of more than 20 years of active service and to designate month in which such retirements shall become effective delegated to Secretary of Defense to perform, without approval, ratification, or other action by President, and with authority for Secretary to redelegate, see Ex. Ord. No. 12396, §§ 1(e), 3, Dec. 9, 1982, 47 F.R. 55897, 55898, set out as a note under section 301 of Title 3, The President.

For delegation to Secretary of Homeland Security of authority vested in President, see section 2(g) of Ex. Ord. No. 10637, Sept. 16, 1955, 20 F.R. 7025, as amended, set out as a note under section 301 of Title 3, The President.

TEMPORARY EARLY RETIREMENT AUTHORITY

For provisions authorizing the Secretary of the Navy, during the period beginning Oct. 23, 1992, and ending Oct. 1, 1995, to apply this section to an officer with at least 15 but less than 20 years of service by substituting ''at least 15 years'' for ''at least 20 years'' in subsec. (a) of this section, see section 4403 of Pub. L. 102–484, set out as a note under section 1293 of this title.

## § 6324. Officers: creditable service

For the purpose of this chapter, service as a nurse in the armed forces before April 16, 1947, is considered as commissioned service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 394; Pub. L. 86–197, § 1(6), Aug. 25, 1959, 73 Stat. 426; Pub. L. 89–609, § 1(15), Sept. 30, 1966, 80 Stat. 853; Pub. L. 90–130, § 1(23)(A), Nov. 8, 1967, 81 Stat. 380.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6324 ..... | 34 U.S.C. 43g(h). | Apr. 16, 1947, ch. 38, § 207(i), 61 Stat. 50; redesignated (h), Aug. 7, 1947, ch. 512, § 434(d), 61 Stat. 882. |

The words ''or the reserve components thereof'' are omitted because ''Army'', ''Navy'', and ''Air Force'', as defined in this title, include the reserve components.

AMENDMENTS

1967—Pub. L. 90–130 substituted provision reciting simply that service as a nurse in the armed forces before April 16, 1947, is considered as commissioned service for purposes of this chapter for provisions making specific reference to service under an appointment or contract or as a commissioned officer in the Nurse Corps of the Army or the Navy or as a commissioned officer of the Air Force designated as an Air Force Nurse.

1966—Pub. L. 89–609 substituted ''the person's'' for ''her'' in introductory text in two places.

1959—Pub. L. 86–197 substituted ''a regular officer or a reserve officer'' for ''an officer''.

AUTHORITY OF MILITARY DEPARTMENT SECRETARIES TO CONVENE BOARDS TO RECOMMEND DEFERMENT OF RETIREMENT OR SEPARATION OF NURSES

Secretaries authorized until July 1, 1972, to convene boards of officers to consider and recommend deferment of separation or retirement of officers of the Army Nurse Corps, officers of the Navy Nurse Corps, and Air Force nurses, as needs of the service require, see section 4(f) of Pub. L. 90–130, set out as a note under section 3069 of this title.

## § 6325. Officers: retired grade and pay

(a) Except as provided in subsection (b) or section 1370 of this title, each officer who is retired under section 6321 or 6322 of this title—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade in which he was serving at the time of retirement; and

(2) unless otherwise entitled to higher pay, is entitled to retired pay computed under section 6333 of this title.

(b) Each officer who is retired while serving in the grade of admiral, vice admiral, general, or lieutenant general by virtue of an appointment under section 601 of this title or who is retired while serving in a grade to which he was appointed or promoted under section 603 of this title or promoted under section 602[1] (as in effect before February 1, 1992) or section 5721 of this title—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade he would hold if he had not received such an appointment; and

(2) unless otherwise entitled to higher pay, is entitled to retired pay computed under section 6333 of this title.

(c) A warrant officer who retires under section 6321, 6322, or 6323 of this title may elect to be placed on the retired list in the highest grade and with the highest retired pay to which he is entitled under any provision of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 394; Pub. L. 85–422, § 11(a)(6)(B), May 20, 1958, 72 Stat. 131; Pub. L. 85–861, § 1(143), Sept. 2, 1958, 72 Stat. 1509; Pub. L. 88–132, § 5(h)(4), Oct. 2, 1963, 77 Stat. 214; Pub. L. 95–377, § 7, Sept. 19, 1978, 92 Stat. 721; Pub. L. 96–342, title VIII, § 813(d)(3), Sept. 8, 1980, 94 Stat. 1104; Pub. L. 96–513, title V, §§ 503(47)(B), 513(17), Dec. 12, 1980, 94 Stat. 2914, 2932; Pub. L. 97–22, § 10(b)(8), July 10, 1981, 95 Stat. 137; Pub. L. 99–348, title I, § 104(c)(2), title II, § 203(b)(3), July 1, 1986, 100 Stat. 691, 696; Pub. L. 102–484, div. A, title X, § 1052(39), Oct. 23, 1992, 106 Stat. 2501.)

[1] See References in Text note below.

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6325 ..... | 34 U.S.C. 410m. | Aug. 7, 1947, ch. 512, § 316(j), 61 Stat. 868. |
| | 34 U.S.C. 626–1(a) (1st sentence). | Aug. 7, 1947, ch. 512, § 314(a) (1st sentence), 61 Stat. 863; May 5, 1954, ch. 180, § 205, 68 Stat. 68. |
| | 34 U.S.C. 389 (1st sentence as applicable to grade). | R.S. 1457 (1st sentence as applicable to grade). |
| | 34 U.S.C. 410c(a) (as applicable to retired pay of officers retired under 34 U.S.C. 410b). | Feb. 21, 1946, ch. 34, § 7(a) (as applicable to retired pay of officers retired under § 6), 60 Stat. 27; Aug. 7, 1947, ch. 512, § 432(a), 61 Stat. 881. |
| | 34 U.S.C. 43g(d). | Apr. 16, 1947, ch. 38, § 207(e), 61 Stat. 49; redesignated (d), Aug. 7, 1947, ch. 512, § 434(d), 61 Stat. 882; May 16, 1950, ch. 186, § 3(i), 64 Stat. 162. |
| | 34 U.S.C. 43g(f). | Apr. 16, 1947, ch. 38, § 207(g), 61 Stat. 49; redesignated (f), Aug. 7, 1947, ch. 512, § 434(d), 61 Stat. 882. |
| | 34 U.S.C. 410r(a), (g). | June 12, 1948, ch. 449, § 207(a), (g), 62 Stat. 366. |
| | 34 U.S.C. 625h(a). | June 12, 1948, ch. 449, § 213(a), 62 Stat. 369. |
| | 34 U.S.C. 430(f) (as applicable to officers retired under 34 U.S.C. 381, 34 U.S.C. 383, and 34 U.S.C. 410b). | May 29, 1954, ch. 249, § 14(f), 68 Stat. 163 (as applicable to officers retired under R.S. 1443, Act of May 13, 1908, ch. 166, 35 Stat. 128 (8th sentence, less proviso), and Act of Feb. 21, 1946, ch. 34, § 6, 60 Stat. 27). |

Title III of the Officer Personnel Act of 1947 authorizes temporary promotions to the grades of lieutenant through rear admiral. The purpose of § 316(j) of that act (34 U.S.C. 410m) was to insure that each officer who is temporarily promoted under that Title, and who retires before he receives a permanent appointment in the grade in which he is serving, will be considered, for the purposes of the laws relating to retired grade and pay, to be serving in the grade he holds pursuant to his temporary appointment. Since § 5001 of this title provides that an officer who holds a permanent appointment in one grade and a temporary appointment in a higher grade is considered as serving in the higher grade, a restatement of the substance of § 316(j) is unnecessary and is omitted from subsection (a). The words ''retired other than by reason of physical disability incurred in line of duty'', in 34 U.S.C. 43g(d) and (f) and 34 U.S.C. 410r(g), are omitted as unnecessary, since this section relates only to officers who are voluntarily retired under this chapter. The words ''basic pay to which he would be entitled if serving on active duty in the grade in which retired'' are substituted for the words ''active-duty pay with longevity credit of the rank with which retired'' in 34 U.S.C. 410c(a), for the words ''active-duty pay to which entitled at the time of retirement'' in 34 U.S.C. 43g(d), and for the words ''active-duty pay to which she would be entitled if serving, at the time of retirement, on active duty in the rank in which placed upon the retired list'' in 34 U.S.C. 43g(f) and 34 U.S.C. 410r(g), to make clear the fact that the amount of retired pay is not permanently fixed at the time of retirement but is subject to change when rates of basic pay are changed, as provided in 34 U.S.C. 410q. The words ''basic pay'' are substituted for the words ''active-duty pay'' and the words ''creditable for basic pay'' are substituted for the words ''for which entitled to credit in the computation of her active-duty pay'', and for the words ''for which entitled to credit in the computation of their pay while on active duty'' to conform to the terminology used in the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.)

Unlike provisions of law authorizing retirement on various other grounds, R.S. 1443, which provides for the retirement of officers on their own application after 40 years of service, contains no provisions as to retired pay. R.S. 1588 provided, inter alia, that officers so retired should received retired pay at the rate of 75 percent of the sea pay of their respective grades, but that section was expressly repealed by § 531(a)(7) of the Career Compensation Act of 1949, leaving no specific provision for the retired pay of officers retired under R.S. 1443. It would be absurd to assume, however, that Congress intended that an officer having 40 years of service should be retired without pay, when he could have been retired with pay at any time within the preceding 20 years. By the repeal of R.S. 1588 Congress intended merely to remove obsolete and superseded provisions as to retirement at age 62 and retirement after 45 years of service, references to sea pay, and provisions, inconsistent with later law, for half pay for officers retired for other reasons. Congress intended the retired pay of officers retired after 40 years of service to be computed according to the formula prescribed generally for retired officers, other than for officers retired by reason of physical disability, and this section is worded accordingly.

Subsection (b) is added for clarity. With respect to officers appointed under §§ 5231 or 5232 of this title it represents a necessary inference from 34 U.S.C. 410*o* and 623b(e), codified in § 5233 of this title.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6325 ..... | [No source]. | [No source]. |

The reference to section 6323 is deleted, since it is no longer appropriate to include in this section officers retired under section 6323.

REFERENCES IN TEXT

Section 602 of this title, referred to in subsec. (b), was repealed by Pub. L. 102–190, div. A, title XI, § 1113(a), Dec. 5, 1991, 105 Stat. 1502.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–484 substituted ''section 602 (as in effect before February 1, 1992) or section 5721'' for ''section 602 or 5721''.

1986—Subsec. (a)(2). Pub. L. 99–348, § 203(b)(3), substituted provision that retired pay be computed under section 6333 for provision that retired pay, in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 2½ percent of the basic pay of the grade in which he retired, or in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d), which rates were to be multiplied by the number of years of service credited under section 1405, but such retired pay was not to be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay was based.

Subsec. (b)(2). Pub. L. 99–348, § 203(b)(3), substituted provision that retired pay be computed under section 6333 for provision that retired pay, in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 2½ percent of the basic pay of the grade he would have held if he had not received an appointment, or in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d), which rates were to be multiplied by the number of years of service credited under section 1405, but such retired pay was not to be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay was based.

Subsec. (c). Pub. L. 99–348, § 104(c)(2), struck out provision that if the pay of that highest grade was less than the pay of any warrant grade satisfactorily held by him on active duty, his retired pay would be based on the higher pay.

1981—Subsec. (b). Pub. L. 97–22, in provisions preceding par. (1), substituted ''appointed or promoted under section 603 of this title or promoted under section 602 or 5721 of this title'' for ''appointed under section 5597 of this title or promoted under section 5787 or 5787d of this title''.

1980—Subsec. (a). Pub. L. 96–513, § 503(47)(B)(i), inserted ''or section 1370 of this title'' after ''subsection (b)''.

Subsec. (a)(2). Pub. L. 96–513, § 513(17), substituted ''September 8, 1980'' for ''the date of the enactment of the Department of Defense Authorization Act, 1981'' wherever appearing.

Pub. L. 96–342, § 813(d)(3)(A), designated existing provisions as subpar. (A), inserted provision limiting applicability to officers who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added subpar. (B).

Subsec. (b). Pub. L. 96–513, § 503(47)(B)(ii), substituted ''601'' for ''5231 or 5232''.

Subsec. (b)(2). Pub. L. 96–513, § 513(17), substituted ''September 8, 1980'' for ''the date of the enactment of the Department of Defense Authorization Act, 1981'' wherever appearing.

Pub. L. 96–342, § 813(d)(3)(B), designated existing provisions as subpar. (A), inserted provision limiting applicability to officers who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added subpar. (B).

1978—Subsec. (b). Pub. L. 95–377 inserted ''or 5787d'' after ''5787''.

1963—Subsecs. (a)(2), (b)(2). Pub. L. 88–132 substituted ''of'' for ''to which he would be entitled if serving on active duty in'' following ''2½ percent of the basic pay''.

1958—Subsec. (a). Pub. L. 85–861 substituted ''or 6322'' for '', 6322, or 6323''.

Subsecs. (a)(2), (b)(2). Pub. L. 85–422 substituted ''that may be credited to him under section 1405 of this title'' for ''creditable for basic pay''.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 10(b) of Pub. L. 97–22 provided that the amendment made by that section is effective Sept. 15, 1981.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 503(47) of Pub. L. 96–513 effective Sept. 15, 1981, and amendment by section 513(17) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as a note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–422 effective June 1, 1958, see section 9 of Pub. L. 85–422.

RECOMPUTATION OF RETIRED PAY OF ADMIRALS AND VICE ADMIRALS

Officers entitled to retired pay on May 31, 1958, who served on active duty before that day in the grade of admiral or vice admiral for a period of at least 180 days, authorized to recompute retired pay, see section 7(b), (c) of Pub. L. 85–422.

## § 6326. Enlisted members: 30 years

(a) Each enlisted member of the Regular Navy or the Regular Marine Corps who applies for re-

tirement after completing 30 or more years of active service in the armed forces shall be retired by the President.

(b) For the purpose of subsection (a), ''enlisted member'' includes a member of the Regular Navy or the Regular Marine Corps who holds a permanent enlisted grade and a temporary appointment in a commissioned or warrant officer grade.

(c) Each person retired under this section—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade in which serving at the time of retirement; and

(2) unless otherwise entitled to higher pay, is entitled to retired pay computed under section 6333 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 395; Pub. L. 85–422, § 6(9), May 20, 1958, 72 Stat. 129; Pub. L. 85–861, § 36B(20), Sept. 2, 1958, 72 Stat. 1571; Pub. L. 88–132, § 5(h)(4), Oct. 2, 1963, 77 Stat. 214; Pub. L. 90–207, § 3(3), Dec. 16, 1967, 81 Stat. 653; Pub. L. 96–342, title VIII, § 813(d)(4), Sept. 8, 1980, 94 Stat. 1105; Pub. L. 96–513, title V, § 513(17), (19), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 99–348, title II, § 203(b)(4), July 1, 1986, 100 Stat. 696.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6326 ..... | 34 U.S.C. 431. | Mar. 3, 1899, ch. 413, § 17, 30 Stat. 1008; Mar. 2, 1907, ch. 2515, § 1, 34 Stat. 1217. |
| | 34 U.S.C. 432. | Mar. 3, 1899, ch. 413, § 17, 30 Stat. 1008; June 22, 1906, ch. 3518, 34 Stat. 451; Mar. 2, 1907, ch. 2515, § 1, 34 Stat. 1217; June 4, 1920, ch. 228, § 3 (3d proviso as applicable to enlisted men), 41 Stat. 835. |
| | 34 U.S.C. 879 (as applicable to enlisted men). | June 4, 1920, ch. 228, § 3 (3d proviso as applicable to enlisted men), 41 Stat. 835. |
| | 34 U.S.C. 3c(e). | Aug. 7, 1947, ch. 512, § 302(e), 61 Stat. 829. |
| | 34 U.S.C. 350f(a) (less provisos). | July 24, 1941, ch. 320, § 7(a) (less provisos), 55 Stat. 604; Nov. 30, 1942, ch. 643, 56 Stat. 1023. |
| | 34 U.S.C. 410m. | Aug. 7, 1947, ch. 512, § 316(j), 61 Stat. 868. |
| | 34 U.S.C. 350i(e). | July 24, 1941, ch. 320, § 10(e), 55 Stat. 605; Feb. 21, 1946, ch. 34, § 8(a), 60 Stat. 28. |

In subsection (a) the word ''Regular'' is inserted before the words ''Navy'' and ''Marine Corps'' to reflect the longstanding interpretation that 34 U.S.C. 431 applies only to members of the Regular Navy and Regular Marine Corps. So much of the Act of March 2, 1907, ch. 2515, § 1 (34 U.S.C. 431), as pertains to allowances and rations was expressly repealed by the Act of June 16, 1942, ch. 413, 56 Stat. 369. The words ''active service in the armed forces'' are substituted for 34 U.S.C. 432 for brevity. The reference to the former Revenue Cutter Service in 34 U.S.C. 432 is omitted as obsolete, inasmuch as that Service was absorbed by the Coast Guard in 1915. If there are any enlisted men not yet retired who served in the Revenue Cutter Service, their right to count that service for the purpose of this section is protected by the saving provisions accompanying this title. The reference to active service in the Civil or Spanish-American War in 34 U.S.C. 432 is omitted as obsolete.

Subsection (b) is inserted to cover into the section permanent enlisted members who are temporarily appointed to commissioned or warrant grades.

In subsection (c) the word ''grade'' is substituted for the words ''rating or rank'' and the words ''is entitled to retired pay at the rate of 75 percent of the basic pay to which he would be entitled if serving on active duty in the grade in which retired'' are substituted for the words ''and with 75 per centum of the pay of the said rating or rank'' to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.).

Subsection (d) is substituted for 34 U.S.C. 350i(e) as that section pertains to voluntary retirement of enlisted members with 30 years of active service.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–348 substituted provision that retired pay be computed under section 6333 for provision that retired pay, in the case of a person who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 75 percent of the basic pay of the pay grade in which he was serving on the day before retirement or, if he served as master chief petty officer of the Navy or as sergeant major of the Marine Corps, 75 percent of the highest basic pay to which he was entitled while so serving, if that rate was higher, or in the case of a person who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be computed by multiplying the monthly retired pay base computed under section 1407(d) by 75 percent.

1980—Subsec. (c)(2). Pub. L. 96–513 substituted ''September 8, 1980'' for ''the date of the enactment of the Department of Defense Authorization Act, 1981'' wherever appearing, and ''master chief petty officer'' for ''senior enlisted advisor''.

Pub. L. 96–342 designated existing provisions as subpar. (A), inserted provision limiting applicability to persons who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added subpar. (B).

1967—Subsec. (c)(2). Pub. L. 90–207 inserted '', or if he has served as senior enlisted advisor of the Navy or as sergeant major of the Marine Corps, he shall be entitled to retired pay at the rate of 75 percent of the highest basic pay to which he was entitled while so serving, if that rate is higher'' after ''retirement''.

1963—Subsec. (c)(2). Pub. L. 88–132 substituted ''of'' for ''to which he would be entitled is serving on active duty in'' after ''75 percent of the basic pay''.

1958—Subsec. (c)(2). Pub. L. 85–422 substituted ''pay grade in which he was serving on the day before retirement'' for ''grade in which retired''.

Subsec. (d). Pub. L. 85–861 repealed subsec. (d) which related to grade of members serving in a grade to which they were appointed under section 5597 or promoted under section 5787 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–207 effective Oct. 1, 1967, see section 7 of Pub. L. 90–207, set out as a note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as a note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–422 effective June 1, 1958, see section 9 of Pub. L. 85–422.

Amendment by Pub. L. 85–422 inapplicable to retired persons or to persons to whom retired pay is granted before May 31, 1958, see note set out under section 3991 of this title.

## § 6327. Officers and enlisted members of the Navy Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay

(a) A member of the Navy Reserve or the Marine Corps Reserve may be transferred to the Retired Reserve upon his request if he has completed—

(1) at least 30 years of active service in the armed forces, other than active duty for training; or

(2) at least 20 years of active service in the armed forces other than active duty for training, the last 10 of which he served in the 11-year period immediately preceding his transfer to the Retired Reserve.

(b) Each member who is transferred to the Retired Reserve under subsection (a) is entitled, when not on active duty, to retired pay at the rate of 50 percent of the basic pay of the grade in which retired.

(c) This section applies only to persons who were members of the Navy Reserve or the Marine Corps Reserve on January 1, 1953.

(d) This section terminates on January 1, 1973. However, its termination will not affect any accrued rights to retired pay.

(e) A member who is eligible for retirement under this section, and who is also eligible for retirement under another provision or for transfer to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of this title, is entitled to elect which of these benefits he is to receive.

(Aug. 10, 1956, ch. 1041, 70A Stat. 395; Pub. L. 85–583, § 1(1), Aug. 1, 1958, 72 Stat. 480; Pub. L. 88–132, § 5(h)(5), Oct. 2, 1963, 77 Stat. 214; Pub. L. 109–163, div. A, title V, § 515(b)(1)(I), (3)(B), Jan. 6, 2006, 119 Stat. 3233, 3234.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6327 ..... | 50 U.S.C. 1052(a), (b), (d), (e), (f). | July 9, 1952, ch. 608, § 413(a), (b), (d), (e), (f), 66 Stat. 499. |

In subsection (a) the word ''Federal'' is omitted and the words ''in the armed forces, other than active duty for training'' are inserted. The words ''active Federal service'' are not defined in 50 U.S.C. 1052. Section 310 of the Naval Reserve Act of 1938, which 50 U.S.C. 1052 replaced, specifies active service in the ''Army, Navy, Marine Corps, Coast Guard, Naval Auxiliary Service, Naval Reserve Force, Naval Militia in Federal status, National Naval Volunteers, Naval Reserve, Marine Corps Reserve Force, and Marine Corps Reserve.'' 50 U.S.C. 1052 was intended to preserve the rights of persons who, on January 1, 1953, were members of reserve components, so that they would not be prejudiced by the repeal of § 310 of the Naval Reserve Act of 1938 (U.S. Code Congressional and Administrative News, 1952, p. 3584). To effect that purpose, the service that was creditable under the 1938 Act must be creditable under 50 U.S.C. 1052. The words ''active service in the armed forces, other than active duty for training'' cover all creditable service. The Judge Advocate General of the Navy, in an opinion dated August 27, 1954 (JAG II:2:WGA:CA:mk), held that active duty for training was not creditable under the 1938 Act and is, therefore, not creditable under the 1952 Act.

AMENDMENTS

2006—Pub. L. 109–163, § 515(b)(3)(B), substituted ''Navy Reserve'' for ''Naval Reserve'' in section catchline.

Subsecs. (a), (c). Pub. L. 109–163, § 515(b)(1)(I), substituted ''Navy Reserve'' for ''Naval Reserve''.

1963—Subsec. (b). Pub. L. 88–132 substituted ''of the grade in which retired'' for ''to which he would be entitled if on active duty'' after ''50 percent of the basic pay''.

1958—Subsec. (e). Pub. L. 85–583 entitled eligible members of Naval Reserve or Marine Corps Reserve to elect to transfer to Fleet Reserve or Fleet Marine Corps Reserve.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as a note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

## § 6328. Computation of years of service: voluntary retirement

(a) ENLISTED MEMBERS.—Time required to be made up under section 972(a) of this title after February 10, 1996, may not be counted in computing years of service under this chapter.

(b) OFFICERS.—Section 972(b) of this title excludes from computation of an officer's years of service for purposes of this chapter any time identified with respect to that officer under that section.

(Added Pub. L. 104–106, div. A, title V, § 561(d)(3)(A), Feb. 10, 1996, 110 Stat. 322; amended Pub. L. 107–107, div. A, title X, § 1048(c)(13), Dec. 28, 2001, 115 Stat. 1226.)

PRIOR PROVISIONS

A prior section 6328, acts Aug. 10, 1956, ch. 1041, 70A Stat. 396; Sept. 24, 1983, Pub. L. 98–94, title IX, § 923(c)(2), 97 Stat. 643, related to treatment of fractions of years of service in computing retired pay, prior to repeal by Pub. L. 99–348, title II, § 203(b)(5), July 1, 1986, 100 Stat. 696.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–107 substituted ''February 10, 1996,'' for ''the date of the enactment of this section''.

EFFECTIVE DATE

Section effective Feb. 10, 1996, and applicable to any period of time covered by section 972 of this title that occurs after that date, see section 561(e) of Pub. L. 104–106, set out as an Effective Date of 1996 Amendment note under section 972 of this title.

## § 6329. Officers not to be retired for misconduct

No officer of the Navy or the Marine Corps may be retired because of misconduct for which trial by court-martial would be appropriate.

(Aug. 10, 1956, ch. 1041, 70A Stat. 396.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6329 ..... | 34 U.S.C. 385.<br>34 U.S.C. 626–1(a) (1st sentence). | R.S. 1456.<br>Aug. 7, 1947, ch. 512, § 314(a) (1st sentence), 61 Stat. 863; May 5, 1954, ch. 180, § 205, 68 Stat. 68. |

The words ''for which trial by court-martial would be appropriate'' are substituted for the words ''but he shall be brought to trial by court-martial for such misconduct''. The peremptory command in the source text is at variance with the theory of the Uniform Code of Military Justice and conflicts with the provisions of ar-

ticles 30, 32, and 34. The substituted words are in accord with the interpretation placed on R.S. 1456 in *Denby* v. *Berry*, 263 U.S. 29, 36 (Nov. 12, 1923).

### § 6330. Enlisted members: transfer to Fleet Reserve and Fleet Marine Corps Reserve; retainer pay

(a) The Fleet Reserve and the Fleet Marine Corps Reserve are composed of members of the naval service transferred thereto under this section.

(b) An enlisted member of the Regular Navy or the Navy Reserve who has completed 20 or more years of active service in the armed forces may, at his request, be transferred to the Fleet Reserve. An enlisted member of the Regular Marine Corps or the Marine Corps Reserve who has completed 20 or more years of active service in the armed forces may, at his request, be transferred to the Fleet Marine Corps Reserve.

(c)(1) Each member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section is entitled, when not on active duty, to retainer pay computed under section 6333 of this title.

(2) A member may recompute his retainer pay under section 1402 or 1402a of this title, as appropriate, to reflect active duty after transfer.

(3) If the member has been credited by the Secretary of the Navy with extraordinary heroism in the line of duty, which determination by the Secretary is final and conclusive for all purposes, his retainer pay shall be increased by 10 percent.

(d)(1) For the purposes of subsection (c), each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

(2) In determining a member's eligibility for transfer to the Fleet Reserve or the Fleet Marine Corps Reserve under subsection (b)—

(A) a completed minority enlistment of the member is counted as four years of active service, if creditable to the member for such purpose before December 31, 1977; and

(B) an enlistment of the member terminated within three months before the end of the term of enlistment is counted as active service for the full term, if creditable to the member for such purpose before December 31, 1977.

(3)(A) Subject to subparagraph (B), in determining a member's years of active service for the computation of retainer pay under subsection (c)—

(i) a completed minority enlistment of the member is counted as four years of active service; and

(ii) an enlistment of the member terminated within three months before the end of the term of enlistment is counted as active service for the full term.

(B) In the case of a member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section after December 30, 1977, service attributable under subparagraph (A) to time which, after December 31, 1977, is not actually served by the member may not be counted.

(Aug. 10, 1956, ch. 1041, 70A Stat. 396; Pub. L. 85–583, § 1(2), (3), Aug. 1, 1958, 72 Stat. 480; Pub. L. 90–207, § 3(4), Dec. 16, 1967, 81 Stat. 653; Pub. L. 96–342, title VIII, § 813(d)(5), Sept. 8, 1980, 94 Stat. 1105; Pub. L. 96–513, title V, § 513(17), (19), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 98–94, title IX, § 923(c)(3), Sept. 24, 1983, 97 Stat. 643; Pub. L. 99–348, title II, § 203(b)(6), title III, § 305(a)(1), July 1, 1986, 100 Stat. 696, 704; Pub. L. 101–189, div. A, title VI, § 652(a)(5), Nov. 29, 1989, 103 Stat. 1461; Pub. L. 109–163, div. A, title V, § 515(b)(1)(J), Jan. 6, 2006, 119 Stat. 3233.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6330 ..... | 34 U.S.C. 854 (less proviso). | June 25, 1938, ch. 690, § 201 (less proviso), 52 Stat. 1178. |
| | 34 U.S.C. 854 (note). | July 9, 1952, ch. 608, § 803 (2d sentence of 1st par.), 66 Stat. 505. |
| | 34 U.S.C. 854c (less 4th, 5th, 6th (as applicable to 34 U.S.C. 854b) and 7th provisos). | June 25, 1938, ch. 690, § 204 (less 4th, 5th, 6th (as applicable to § 203 of the Naval Reserve Act of 1938), and 7th provisos), 52 Stat. 1170; Aug. 10, 1946, ch. 952, § 2, 60 Stat. 993. |
| | 34 U.S.C. 854a (less provisos). | June 25, 1938, ch. 690, § 202 (less provisos), 52 Stat. 1178. |

In subsection (a) the words ''officers'' and ''assigned'' are omitted, since they are applicable only to the proviso in 34 U.S.C. 854, which is recommended for repeal as obsolete. (See Table 2A.) The words ''including (a) those former members of the Fleet Reserve who were transferred * * * but before the expiration of three months following discharge'', appearing in § 803 of the Armed Forces Reserve Act of 1952, 66 Stat. 505 (34 U.S.C. 854 (note)) are omitted as surplusage. These words merely illustrate the class of persons transferred to the Fleet Reserve under the Naval Reserve Act of 1938, 52 Stat. 1178, as referred to in the section from which these words were taken, and in no way limit that class or impose a citizenship requirement for membership in it. (See the opinion of the Judge Advocate General of the Navy, JAG:II:1:JFG:imz of February 17, 1953.)

In subsection (b) reference to the date July 1, 1925, is omitted, since members who were in the naval service on or before that date may, if they are qualified and so elect, be transferred to the Fleet Reserve or to the Fleet Marine Corps Reserve under 34 U.S.C. 854c instead of under 34 U.S.C. 854b, as provided in the fifth proviso of 34 U.S.C. 854c. That proviso and the provisions of 34 U.S.C. 854b, which are applicable only to persons who were in the naval service in 1925, are not codified because they relate to a small closed class and are therefore of limited interest. They are not repealed, however. (See Table 2D.)

In subsections (b) and (c) the term ''active service in the armed forces'' is substituted for the term ''active Federal service'' to execute the definition in the last sentence of 34 U.S.C. 854c.

In subsection (c) the words ''is entitled, when not on active duty, to retainer pay at the rate of 2½ percent of the basic pay that he received at the time of transfer'' are substituted for the words ''except when on active duty, shall be paid at the annual rate of 2½ per centum of the annual base and longevity pay they are receiving at the time of transfer'' to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.).

Subsection (d) states the rule as to the method of counting minority and short-term enlistments, in connection with determining active service, in accordance with *White v. United States*, 97 F. Supp. 698.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

1989—Subsec. (a). Pub. L. 101–189 substituted ''under this section.'' for ''under—

''(1) Title II of the Naval Reserve Act of 1938 (52 Stat. 1178), as amended; or

''(2) this section.''

1986—Subsec. (c)(1). Pub. L. 99–348, § 203(b)(6)(A), substituted provision that retainer pay be computed under section 6333 for provision that retainer pay, in the case of a member who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 2½ percent of the basic pay that he received at the time of transfer or, in the case of a member who served as master chief petty officer of the Navy or sergeant major of the Marine Corps, of the highest basic pay to which he was entitled while so serving, if that basic pay is higher than the basic pay received at the time of transfer, or in the case of a member who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be at the rate of 2½ percent of the monthly retainer pay base computed under section 1407(d), which rates were to be multiplied by the number of years of active service in the armed forces.

Subsec. (c)(4). Pub. L. 99–348, § 203(b)(6)(B), struck out par. (4) which provided that in no case could a member's retainer pay be more than 75 percent of the basic pay or monthly retainer pay base upon which computation of retainer pay was based.

Subsec. (d). Pub. L. 99–348, § 305(a)(1), designated existing provisions as par. (1), struck out provision that a completed minority enlistment be counted as four years of active service and an enlistment terminated within three months before the end of the term be counted as active service for the full term, and added pars. (2) and (3).

1983—Subsec. (d). Pub. L. 98–94 substituted ''For the purposes of subsection (c), each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded'' for ''For the purposes of subsections (b) and (c), a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded''.

1980—Subsec. (c). Pub. L. 96–513 substituted ''September 8, 1980'' for ''the date of the enactment of the Department of Defense Authorization Act, 1981'' wherever appearing, and ''master chief petty officer'' for ''senior enlisted advisor''.

Pub. L. 96–342 amended subsec. (c) generally, designating existing provisions as pars. (1) to (4) and, as so amended, in par. (1) designated existing provisions as subpar. (A), as so designated, inserted provision limiting applicability to persons who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added subpar. (B), in par. (2) inserted reference to section 1402a of this title, and in par. (4) added applicability to monthly retainer pay base.

1967—Subsec. (c). Pub. L. 90–207 inserted '', except that in the case of a member who has served as senior enlisted advisor of the Navy or sergeant major of the Marine Corps, retainer pay shall be computed on the basis of the highest basic pay to which he was entitled while so serving, if that basic pay is higher than the basic pay received at the time of transfer'' after ''armed forces''.

1958—Subsec. (a). Pub. L. 85–583, § 1(2), substituted ''naval service'' for ''Regular Navy and the Regular Marine Corps, respectively,''.

Subsec. (b). Pub. L. 85–583, § 1(3), inserted ''or the Naval Reserve'' after ''Regular Navy'' and ''or the Marine Corps Reserve'' after ''Regular Marine Corps''.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–94 applicable with respect to the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–207 effective Oct. 1, 1967, see section 7 of Pub. L. 90–207, set out as a note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

TEMPORARY EARLY RETIREMENT AUTHORITY

For provisions authorizing the Secretary of the Navy, during the period beginning Oct. 23, 1992, and ending Oct. 1, 1995, to apply this section to an enlisted member of the Navy or Marine Corps with at least 15 but less than 20 years of service by substituting ''15 or more years'' for ''20 or more years'' in the first sentence of subsection (a) [probably should be (b)] of this section and in the second sentence of subsec. (b) of this section, see section 4403 of Pub. L. 102–484, set out as a note under section 1293 of this title.

RETAINER PAY OF ENLISTED MEMBERS OF REGULAR NAVY, NAVAL RESERVE, REGULAR MARINE CORPS, OR MARINE CORPS RESERVE TRANSFERRED TO FLEET RESERVE OR FLEET MARINE CORPS RESERVE

Pub. L. 98–473, title I, § 101(h) [title VIII, § 8039], Oct. 12, 1984, 98 Stat. 1904, 1930, limited the use of assets of the Department of Defense Military Retirement Fund to pay the retainer pay of enlisted members of the Regular Navy, the Naval Reserve, the Regular Marine Corps, or the Marine Corps Reserve who were transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section on or after Dec. 31, 1977, prior to repeal by Pub. L. 99–348, title III, § 305(a)(2), July 1, 1986, 100 Stat. 704. See section 6330(d)(2) and (3) of this title.

TRANSFER OF FORMER MEMBERS OF NAVY OR MARINE CORPS TO FLEET RESERVE OR FLEET MARINE CORPS RESERVE; TRANSFER TO RETIRED LIST

Act July 24, 1956, ch. 683, 70 Stat. 626, provided: ''Upon application by any former member of the Navy or Marine Corps—

''(1) who was discharged prior to August 10, 1946, under honorable conditions, and

''(2) who, at the time of his discharge, had at least twenty years' active Federal service,

the Secretary of the Navy shall appoint such former member in the Fleet Reserve or Fleet Marine Corps Reserve, as may be appropriate, in the rank held by him at the time of such discharge.

''SEC. 2. Each person appointed to the Fleet Reserve or Fleet Marine Corps Reserve under the first section of this Act shall be transferred to the appropriate retired list (1) on the first day of the first calendar month beginning after such appointment, if his last discharge occurred ten or more years prior to the date of such appointment, and (2) in the case of individuals appointed under such section before the expiration of ten years from their last discharge, on the first day of the first calendar month, beginning after the expiration of ten years from the date of such discharge.

''SEC. 3. Each former member transferred to a retired list under clauses (1) and (2) of section 2 shall receive retired pay at the annual rate of 2½ per centum of the annual base and longevity pay he was receiving at the time of his last discharge, multiplied by the number of his years of active Federal service at such time (not to exceed thirty), and adjusted to reflect the percentage increases made since such discharge in the retired pay of persons retired from the Armed Forces prior to October 12, 1949.

''SEC. 4. For the purposes of this Act, all active service in the Army of the United States, the Navy, the Marine Corps, the Coast Guard, or any component thereof, shall be deemed to be active Federal service.

''SEC. 5. No pay shall accrue to the benefit of any person appointed under the provisions of this Act prior to the date such person is actually appointed under the provisions of this Act and in no event prior to the first day of the first month following enactment of this Act [July 24, 1956].''

## § 6331. Members of the Fleet Reserve and Fleet Marine Corps Reserve: transfer to the retired list; retired pay

(a) When he has completed 30 years of service, or when he is found not physically qualified in an examination under section 6485 of this title, a member of the Fleet Reserve or the Fleet Marine Corps Reserve shall be transferred—

(1) to the retired list of the Regular Navy or the Regular Marine Corps, as appropriate, if he was a member of the Regular Navy or the Regular Marine Corps at the time of his transfer to the Fleet Reserve or the Fleet Marine Corps Reserve; or

(2) to the appropriate Retired Reserve, if he was a member of the Navy Reserve or the Marine Corps Reserve at the time of his transfer to the Fleet Reserve or the Fleet Marine Corps Reserve.

(b) For the purpose of subsection (a), a member's years of service are computed by adding—

(1) the years of service credited to him upon his transfer to the Fleet Reserve or the Fleet Marine Corps Reserve;

(2) his years of active and inactive service in the armed forces before his transfer to the Fleet Reserve or the Fleet Marine Corps Reserve not credited to him upon that transfer; and

(3) his years of service, active and inactive, in the Fleet Reserve or the Fleet Marine Corps Reserve.

(c) Unless otherwise entitled to higher pay, each member transferred to the retired list or the Retired Reserve under this section is entitled to retired pay at the same rate as the retainer pay to which he was entitled at the time of his transfer to the retired list or the Retired Reserve.

(Aug. 10, 1956, ch. 1041, 70A Stat. 397; Pub. L. 85–583, § 1(4–6), Aug. 1, 1958, 72 Stat. 480; Pub. L. 109–163, div. A, title V, § 515(b)(1)(K), Jan. 6, 2006, 119 Stat. 3233.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6331 ..... | 34 U.S.C. 854c (4th proviso). | June 25, 1938, ch. 690, § 204 (4th proviso), 52 Stat. 1179; Aug. 10, 1946, ch. 952, § 2, 60 Stat. 993. |
| | 34 U.S.C. 854e (2d and 4th provisos). | June 25, 1938, ch. 690, § 206 (2d and 4th provisos), 52 Stat. 1179; Apr. 25, 1940, ch. 153, 54 Stat. 162. |
| | 34 U.S.C. 854 (note). | July 9, 1952, ch. 608, § 803 (3d sentence), 66 Stat. 505. |

In subsection (a) the words ''transferred * * * in accordance with the provisions of this section and of sections 853 and 854b of this title'', in the fourth proviso of 34 U.S.C. 854c, and the words ''transferred after sixteen years' or more service in the Regular Navy'', and ''men coming under the cognizance of sections 853 and 854b of this title'', in the second proviso of 34 U.S.C. 854e, are omitted as surplusage since the classes designated by these phrases comprise all members of the Fleet Reserve and Fleet Marine Corps Reserve.

Subsection (b) is worded so as to cover all members of the Fleet Reserve and the Fleet Marine Corps Reserve regardless of the law under which they attained that status. A member transferring under 34 U.S.C. 854b may count only active naval service in computing the service required for that transfer, but in determining his eligibility for retirement he may add to his active naval service all previous active or inactive service in the Army, Navy, Marine Corps, Air Force, or Coast Guard, and his time in the Fleet Reserve. A member transferring to the Fleet Reserve under 34 U.S.C. 854c may count active service in any armed force toward that transfer, and he determines his eligibility for retirement by adding to the service credited to him at the time of transfer any previous inactive service in the armed forces and his time in the Fleet Reserve. As to the latter member the words ''active service'' in clause (2) are superfluous, since such service would have been credited to him upon his transfer to the Fleet Reserve, but they are needed in the case of a member transferred under 34 U.S.C. 854b.

In subsection (c) references to the ''allowances to which enlisted men of the Navy are entitled on retirement after thirty years' service'', in the second and fourth provisos of 34 U.S.C. 854e, are omitted because of the repeal, by § 19 of the Pay Readjustment Act of 1942, 56 Stat. 369, of the laws authorizing such allowances.

AMENDMENTS

2006—Subsec. (a)(2). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

1958—Subsec. (a). Pub. L. 85–583, § 1(4), provided for the transfer to the appropriate Retired Reserve of those members of the Fleet Reserve or the Fleet Marine Corps Reserve who had transferred thereto from the Naval Reserve or the Marine Corps Reserve.

Subsec. (b). Pub. L. 85–583, § 1(5), struck out ''of clause (2)''.

Subsec. (c). Pub. L. 85–583, § 1(6), inserted ''or the Retired Reserve'' after ''retired list'' wherever appearing.

## § 6332. Conclusiveness of transfers

When a member of the naval service is transferred by the Secretary of the Navy—

(1) to the Fleet Reserve;

(2) to the Fleet Marine Corps Reserve;

(3) from the Fleet Reserve to the retired list of the Regular Navy or the Retired Reserve; or

(4) from the Fleet Marine Corps Reserve to the retired list of the Regular Marine Corps or the Retired Reserve;

the transfer is conclusive for all purposes. Each member so transferred is entitled, when not on active duty, to retainer pay or retired pay from the date of transfer in accordance with his grade and number of years of creditable service as determined by the Secretary. The Secretary may correct any error or omission in his determination as to a member's grade and years of creditable service. When such a correction is made, the member is entitled, when not on active duty, to retainer pay or retired pay in accordance with his grade and number of years of creditable service, as corrected, from the date of transfer.

(Aug. 10, 1956, ch. 1041, 70A Stat. 397; Pub. L. 85–583, § 1(7), Aug. 1, 1958, 72 Stat. 480; Pub. L. 85–861, § 33(a)(33), Sept. 2, 1958, 72 Stat. 1566.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6332 ..... | 34 U.S.C. 854a (provisos). | June 25, 1938, ch. 690, § 202 (provisos), 52 Stat. 1178. |
| | 34 U.S.C. 854 (note). | July 9, 1952, ch. 608, § 803 (3d sentence), 66 Stat. 505. |

The words ''when not on active duty, to retainer pay or retired pay'' are substituted for the words ''pay and allowances''. The pay and allowances of a member on active duty are covered by the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.). When not on active duty a member of the Fleet Reserve receives retainer pay and a retired member receives retired pay without allowances, the provision for allowances for retired members having been repealed as pointed out in the note on the preceding section. In the last sentence the words ''from the date of transfer'' are added to make it clear that a correction is retroactive to that date. The Court of Claims has so held (*Dugan v. United States* (1943), 100 Ct. Cl. 7).

AMENDMENTS

1958—Pub. L. 85–861 substituted ''to retainer pay or retired pay in accordance'' for ''to retain pay or retired pay in accordance''.

Pub. L. 85–583 inserted ''or the Retired Reserve'' after ''Navy'' in cl. (3) and after ''Marine Corps'' in cl. (4).

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85–861, set out as a note under section 101 of this title.

## § 6333. Computation of retired and retainer pay

(a) The monthly retired pay or retainer pay of a member entitled to such pay under this chapter or under section 6970 or 6383 of this title is computed in accordance with the following table.

| Formula | For sections | Column 1 Take | Column 2 Multiply by |
|---|---|---|---|
| A | 6325(a)<br>6326 | Retired pay base computed under section 1406(d) or 1407. | 75 percent. |
| B | 6323<br>6325(b)<br>6970<br>6383 | Retired pay base computed under section 1406(d) or 1407. | Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to him under section 1405. |
| C | 6330 | Retainer pay base computed under section 1406(d) or 1407. | Retainer pay multiplier prescribed under section 1409 for the years of service that may be credited to him under section 1405. |

(b)(1) Retired pay or retainer pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(2) References in the table in subsection (a) are to sections of this title.

(c) In the case of a Reserve enlisted member whose grade upon transfer to the Fleet Reserve or Fleet Marine Corps Reserve is determined under section 6336 of this title and who first became a member of a uniformed service before September 8, 1980, the retainer pay base of the member (notwithstanding section 1406(a)(1) of this title) is the amount of the monthly basic pay of the grade in which the member is so transferred (determined based upon the rates of basic pay applicable on the date of the member's transfer), and that amount shall be used for the purposes of the table in subsection (a) rather than the amount computed under section 1406(d) of this title.

(Added Pub. L. 98–94, title IX, § 922(a)(10)(A), Sept. 24, 1983, 97 Stat. 641; amended Pub. L. 99–348, title II, § 203(a), July 1, 1986, 100 Stat. 695; Pub. L. 103–337, div. A, title VI, § 635(b), Oct. 5, 1994, 108 Stat. 2789; Pub. L. 104–106, div. A, title XV, § 1503(b)(3), Feb. 10, 1996, 110 Stat. 512; Pub. L. 104–201, div. A, title V, § 532(d)(2), Sept. 23, 1996, 110 Stat. 2520; Pub. L. 109–163, div. A, title V, § 509(d)(2), Jan. 6, 2006, 119 Stat. 3231.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–163 inserted ''6970 or'' after ''section'' in text and ''6970'' below ''6325(b)'' in Formula B under ''For sections'' column in table.

1996—Subsec. (a). Pub. L. 104–106 struck out first period after ''section 1405'' in Formula C under Column 2 in table.

Subsec. (c). Pub. L. 104–201 added subsec. (c).

1994—Subsec. (a). Pub. L. 103–337 substituted ''the years of service that may be credited to him under section 1405.'' for ''his years of active service in the armed forces'' in Formula C under Column 2 in table.

1986—Pub. L. 99–348 amended section generally, designating existing provision as subsec. (b)(1), substituting ''under this section'' for ''under this chapter'', and adding subsecs. (a) and (b)(2).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 applicable to computation of retired pay of any enlisted member who retires on or after Oct. 5, 1994, to computation of retainer pay of any enlisted member who is transferred to Fleet Reserve or Fleet Marine Corps Reserve on or after Oct. 5, 1994, and to recomputation of retired pay of any enlisted member who is advanced on retired list on or after Oct. 5, 1994, see section 635(e) of Pub. L. 103–337, set out as a note under section 1405 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as an Effective Date of 1983 Amendment note under section 1401 of this title.

## § 6334. Higher grade after 30 years of service: warrant officers and enlisted members

(a) Each member of the naval service covered by subsection (b) who, after December 4, 1987, is retired with less than 30 years of active service or is transferred to the Fleet Reserve or Fleet Marine Corps Reserve is entitled, when his active service plus his service on the retired list or his service in the Fleet Reserve or the Fleet Marine Corps Reserve totals 30 years, to be advanced on the retired list to the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the Navy.

(b) This section applies to—

(1) warrant officers of the naval service;

(2) enlisted members of the Regular Navy and Regular Marine Corps; and

(3) reserve enlisted members of the Navy and Marine Corps who, at the time of retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, are serving on active duty.

(c) An enlisted member of the naval service who is advanced on the retired list under this section is entitled to recompute his retired or retainer pay under formula A of the following table, and a warrant officer of the naval service so advanced is entitled to recompute his retired pay under formula B of that table. The amount recomputed, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

| Formula | Column 1 Take | Column 2 Multiply by |
|---|---|---|
| A | Retired pay base as computed under section 1406(d) or 1407 of this title. | The retired pay multiplier prescribed in section 1409 of this title for the number of years creditable for his retainer or retired pay at the time of retirement.[1] |
| B | Retired pay base as computed under section 1406(d) of this title. | The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 1405 of this title. |

[1] In determining the retired pay multiplier, credit each full month of service that is in addition to the number of full years of service creditable to the member as 1/12 of a year and disregard any remaining fractional part of a month.

(Added Pub. L. 100–180, div. A, title V, § 512(b), Dec. 4, 1987, 101 Stat. 1089; amended Pub. L. 101–189, div. A, title XVI, § 1622(g), Nov. 29, 1989, 103 Stat. 1605.)

AMENDMENTS

1989—Subsec. (a). Pub. L. 101–189 substituted ''December 4, 1987'' for ''the date of the enactment of this section''.

### § 6335. Restoration to former grade: warrant officers and enlisted members

Each retired warrant officer or enlisted member of the naval service who has been advanced on the retired list to a higher commissioned grade under section 6334 of this title, and who applies to the Secretary of the Navy within three months after his advancement, shall, if the Secretary approves, be restored on the retired list to his former warrant officer or enlisted status, as the case may be.

(Added Pub. L. 100–180, div. A, title V, § 512(b), Dec. 4, 1987, 101 Stat. 1090.)

### § 6336. Highest grade held satisfactorily: Reserve enlisted members reduced in grade not as a result of the member's misconduct

(a) A member of the Navy Reserve or Marine Corps Reserve described in subsection (b) who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of this title shall be transferred in the highest enlisted grade in which the member served on active duty satisfactorily, as determined by the Secretary of the Navy.

(b) This section applies to a Reserve enlisted member who—

(1) at the time of transfer to the Fleet Reserve or Fleet Marine Corps Reserve is serving on active duty in a grade lower than the highest enlisted grade held by the member while on active duty; and

(2) was previously administratively reduced in grade not as a result of the member's own misconduct, as determined by the Secretary of the Navy.

(c) This section applies with respect to enlisted members of the Navy Reserve and Marine Corps Reserve who are transferred to the Fleet Reserve or the Fleet Marine Corps Reserve after September 30, 1996.

(Added Pub. L. 104–201, div. A, title V, § 532(b)(1), Sept. 23, 1996, 110 Stat. 2519; amended Pub. L. 109–163, div. A, title V, § 515(b)(1)(L), Jan. 6, 2006, 119 Stat. 3233.)

AMENDMENTS

2006—Subsecs. (a), (c). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

## CHAPTER 573—INVOLUNTARY RETIREMENT, SEPARATION, AND FURLOUGH

Sec.
6371. Mandatory retirement: Superintendent of the United States Naval Academy; waiver authority.
[6372 to 6382. Repealed.]
6383. Regular Navy and Regular Marine Corps; officers designated for limited duty: retirement for length of service or failures of selection for promotion; discharge for failures of selection for promotion; reversion to prior status; retired grade; retired pay.
[6384 to 6388. Repealed.]
6389. Navy Reserve and Marine Corps Reserve; officers: elimination from active status; computation of total commissioned service.
[6390 to 6403. Repealed.]
6404. Treatment of fractions of years of service in computing retired pay and separation pay.
[6405 to 6407. Repealed.]
6408. Navy and Marine Corps; warrant officers, W–1: limitation on dismissal.
[6409, 6410. Repealed.]

AMENDMENTS

2006—Pub. L. 109–163, div. A, title V, § 515(b)(4)(C), Jan. 6, 2006, 119 Stat. 3235, substituted ''Navy Reserve'' for 'Naval Reserve'' in item 6389.

2004—Pub. L. 108–375, div. A, title V, § 541(c)(2)(B), Oct. 28, 2004, 118 Stat. 1904, inserted ''; waiver authority'' after ''Academy'' in item 6371.

1999—Pub. L. 106–65, div. A, title V, § 532(a)(4)(C), Oct. 5, 1999, 113 Stat. 604, added item 6371.

1994—Pub. L. 103–337, div. A, title XVI, § 1673(b)(4), Oct. 5, 1994, 108 Stat. 3016, struck out items 6391 ''Naval Reserve and Marine Corps Reserve; officers: retirement at age 62'', 6392 ''Retention in active status of certain officers'', 6397 ''Naval Reserves; officers in the Nurse Corps: elimination from active status'', 6403 ''Naval Reserve and Marine Corps Reserve; women officers: elimination from active status'', and 6410 ''Naval Reserve and Marine Corps Reserve; officers: elimination from active status to provide a flow of promotion''.

1987—Pub. L. 100–180, div. A, title VII, § 717(b)(2), Dec. 4, 1987, 101 Stat. 1114, added item 6392.

1980—Pub. L. 96–513, title V, § 503(48), Dec. 12, 1980, 94 Stat. 2915, struck out items 6371 ''Regular Navy; line rear admirals not restricted in performance of duty; continuation on active list; retirement'', 6372 ''Regular Navy; line rear admirals restricted in performance of duty and staff corps rear admirals: retention on active list; retirement'', 6373 ''Regular Marine Corps; major generals: retention on active list; retirement'', 6374 ''Regular Marine Corps: brigadier generals: retirement for failures of selection for promotion'', 6376 ''Regular Navy, line captains not restricted in performance of duty; Regular Marine Corps, colonels: retirement for length of service'', 6377 ''Regular Navy, line captains restricted in performance of duty, staff corps captains,

and Nurse Corps commanders; Regular Marine Corps, colonels designated for supply duty; retirement for length of service'', 6378 ''Regular Navy, line captains restricted in performance of duty, staff corps captains, and Nurse Corps commanders: continuation on active list; retirement'', 6379 ''Regular Navy, commanders; Regular Marine Corps. lieutenant colonels: retirement for length of service and failures of selection for promotion'', 6380 ''Regular Navy, lieutenant commanders; Regular Marine Corps, majors: retirement for length of service and failures of selection for promotion'', 6381 ''Officers retired under preceding sections; retired grade and pay; general rule'', and 6382 ''Regular Navy, lieutenants and lieutenants (junior grade); Regular Marine Corps, captains and first lieutenants: discharge for failures of selection for promotion; severance pay'', substituted ''retired pay'' for ''retired or severance pay'' in item 6383, struck out items 6384 ''Regular Navy and Regular Marine Corps; officers having less than 20 years of service: discharge for unsatisfactory performance of duty; severance pay; reversion of limited duty officers to prior status'', 6385 ''Officers appointed under sections 5231, 5232, 5787, or 5787d of this title; grade for purpose of preceding sections'', 6386 ''Suspension: preceding sections'', 6387 ''Regular Navy, male line officers: Regular Marine Corps, male officers: computation of total commissioned service'', 6388 ''Regular Navy; certain staff corps officers: computation of total commissioned service'', 6390 ''Regular Navy and Regular Marine Corps; officers: retirement at age 62'', 6392 ''Regular Navy and Regular Marine Corps, officers having less than three years of service: revocation of appointments; reversion of certain officers to prior status'', 6393 ''Regular Navy and Regular Marine Corps; women officers: termination of appointments'', 6394 ''Regular Navy, rear admirals and commodores; Regular Marine Corps, major generals and brigadier generals: retirement on recommendation of board'', 6395 ''Regular Navy and Regular Marine Corps; officers having less than 20 years of service: discharge during war or emergency for unsatisfactory performance of duty'', 6396 ''Regular Navy; officers in Nurse Corps in grades below commander: retirement or discharge'', 6398 ''Regular Navy; women captains and commanders; Regular Marine Corps; women colonels and lieutenant colonels: retirement for length of service: retired grade and pay'', 6400 ''Regular Navy, women lieutenant commanders; Regular Marine Corps, women majors: retirement for length of service; retired grade and pay'', 6401 ''Regular Navy, women lieutenants; Regular Marine Corps, women captains: discharge for length of service; severance pay'', and 6402 ''Regular Navy, women lieutenants (junior grade); Regular Marine Corps, women first lieutenants: discharge for length of service; severance pay'', substituted ''separation pay'' for ''severance pay'' in item 6404, and struck out item 6407 ''Communication with selection board''.

1978—Pub. L. 95–377, § 8(d), Sept. 19, 1978, 92 Stat. 721, inserted reference to section 5787d in item 6385.

1970—Pub. L. 91–482, § 2E, Oct. 21, 1970, 84 Stat. 1082, struck out item 6406 ''Regular Navy and Regular Marine Corps; officers: furlough; furlough pay''.

1968—Pub. L. 90–235, §§ 3(b)(5), 4(a)(13), Jan. 2, 1968, 81 Stat. 758, 760, struck out item 6405 ''Effect of acceptance of appointment in Foreign Service'', and item 6409 ''Navy and Marine Corps; warrant officers: suspension of laws for mandatory retirement and separation during war or emergency''.

1967—Pub. L. 90–130, § 1(24)(B), (G), (H), Nov. 8, 1967, 81 Stat. 380, 382 struck out ''or for age'' after ''length of service'' in item 6377, substituted ''officers in Nurse Corps in grades below commander: retirement or discharge'' for ''officers in Nurse Corps: retirement for age or length of service; retired grade and pay'' in item 6396, substituted ''Regular Navy; women captains and commanders; Regular Marine Corps; women colonels and lieutenant colonels: retirement for length of service; retired grade and pay'' for ''Regular Navy, women commanders; Regular Marine Corps, women lieutenant colonels: retirement for age of length or service; retired grade and pay'' in item 6398, and eliminated item 6399 which read: ''Regular Navy, women lieutenant commanders and below; Regular Marine Corps, women majors and below: retirement at age 50; retired grade and pay''.

1961—Pub. L. 87–123, § 5(30), Aug. 3, 1961, 75 Stat. 267, struck out ''not restricted in performance of duty'' after ''brigadier generals'' and ''colonels'' in items 6374 and 6376, respectively, ''; Regular Marine Corps, colonels designated for supply duty'' after ''Nurse Corps commanders;'' in items 6377 and 6378, and struck out item 6375 ''Regular Marine Corps; brigadier generals designated for supply duty: retention on active list; retirement''.

1958—Pub. L. 85–861, § 1(144)(G), Sept. 2, 1958, 72 Stat. 1512, added items 6389, 6391, 6397, 6403, 6410.

1957—Pub. L. 85–155, title II, § 201(14), Aug. 21, 1957, 71 Stat. 383, included Nurse Corps commanders and retirement for age in item 6377, and included Nurse Corps commanders in item 6378.

## § 6371. Mandatory retirement: Superintendent of the United States Naval Academy; waiver authority

(a) MANDATORY RETIREMENT.—Upon the termination of the detail of an officer to the position of Superintendent of the United States Naval Academy, the Secretary of the Navy shall retire the officer under any provision of chapter 571 of this title under which the officer is eligible to retire.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirement in subsection (a) for good cause. In each case in which such a waiver is granted for an officer, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written notification of the waiver, with a statement of the reasons supporting the decision that the officer not retire, and a written notification of the intent of the President to nominate the officer for reassignment.

(Added Pub. L. 106–65, div. A, title V, § 532(a)(2)(A), Oct. 5, 1999, 113 Stat. 603; amended Pub. L. 108–375, div. A, title V, § 541(a)(2), (c)(2)(A), Oct. 28, 2004, 118 Stat. 1902, 1904.)

PRIOR PROVISIONS

A prior section 6371, act Aug. 10, 1956, ch. 1041, 70A Stat. 399, related to consideration for continuation on active list of Regular Navy line rear admirals not restricted in performance of duty, prior to repeal by Pub. L. 96–513, title III, § 335, title VII, § 701, Dec. 12, 1980, 94 Stat. 2898, 2955, effective Sept. 15, 1981.

AMENDMENTS

2004—Pub. L. 108–375 inserted ''; waiver authority'' after ''Academy'' in section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

APPLICATION OF SECTION TO SUPERINTENDENTS SERVING ON OCTOBER 5, 1999

Section not applicable to an officer serving on Oct. 5, 1999, in the position of Superintendent of the United States Military Academy, Naval Academy, or Air Force Academy for so long as that officer continues on and after that date to serve in that position without a break in service, see section 532(a)(5) of Pub. L. 106–65, set out as a note under section 3921 of this title.

## [§§ 6372 to 6374. Repealed. Pub. L. 96–513, title III, § 335, Dec. 12, 1980, 94 Stat. 2898]

Section 6372, act Aug. 10, 1956, ch. 1041, 70A Stat. 400, related to retirement and possible retention on active

list of line rear admirals restricted in performance of duty and staff corps rear admirals in Regular Navy. See section 637 of this title.

Section 6373, act Aug. 10, 1956, ch. 1041, 70A Stat. 400, related to retirement and possible retention on active list of major generals in Regular Marine Corps. See section 637 of this title.

Section 6374, acts Aug. 10, 1956, ch. 1041, 70A Stat. 401; Aug. 3, 1961, Pub. L. 87–123, § 5(25), 75 Stat. 266, related to retirement for failures of selection for promotion of brigadier generals in Regular Marine Corps.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§ 6375. Repealed. Pub. L. 87–123, § 5(26), Aug. 3, 1961, 75 Stat. 266]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 401, provided for retirement of Marine Corps brigadier generals designated for supply duty after specified years of service, their retention on active list with board approval and computation of their years of service in grade.

### [§§ 6376 to 6382. Repealed. Pub. L. 96–513, title III, § 335, Dec. 12, 1980, 94 Stat. 2898]

Section 6376, acts Aug. 10, 1956, ch. 1041, 70A Stat. 402; Aug. 3, 1961, Pub. L. 87–123, § 5(27), 75 Stat. 266; Nov. 8, 1967, Pub. L. 90–130, § 1(24)(A), 81 Stat. 380, related to retirement for length of service of Regular Navy line captains not restricted in performance duty and Regular Marine Corps colonels. See section 634 of this title.

Section 6377, acts Aug. 10, 1956, ch. 1041, 70A Stat. 402; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(15), 71 Stat. 384; Aug. 3, 1961, Pub. L. 87–123, § 5(28), 75 Stat. 266; Sept. 30, 1966, Pub. L. 89–609, § 1(16), (17), 80 Stat. 853; Nov. 8, 1967, Pub. L. 90–130, § 1(24)(B), (C), 81 Stat. 380, related to retirement for length of service of Regular Navy line captains restricted in performance of duty, staff corps captains, and Nurse Corps commanders. See sections 633 and 634 of this title.

Section 6378, acts Aug. 10, 1956, ch. 1041, 70A Stat. 403; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(16), 71 Stat. 384; Aug. 3, 1961, Pub. L. 87–123, § 5(29), 75 Stat. 267; Dec. 8, 1967, Pub. L. 90–179, § 12, 81 Stat. 549, related to consideration for continuation on active list of Regular Navy line captains restricted in performance of duty, staff corps captains, and Nurse Corps commanders. See section 637 of this title.

Section 6379, acts Aug. 10, 1956, ch. 1041, 70A Stat. 404; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(17), 71 Stat. 384; Nov. 8, 1967, Pub. L. 90–130, § 1(24)(D), 81 Stat. 380, related to retirement for length of service and for failures of selection for promotion of Regular Navy commanders and Regular Marine Corps lieutenant colonels. See section 633 of this title.

Section 6380, act Aug. 10, 1956, ch. 1041, 70A Stat. 404, related to retirement for length of service and for failures of selection for promotion of Regular Navy lieutenant commanders and Regular Marine Corps majors. See section 632 of this title.

Section 6381, acts Aug. 10, 1956, ch. 1041, 70A Stat. 404; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(18), 71 Stat. 384; May 20, 1958, Pub. L. 85–422, § 11(a)(6)(C), 71 Stat. 131; Oct. 2, 1963, Pub. L. 88–132, § 5(h)(4), 77 Stat. 214; Sept. 8, 1980, Pub. L. 96–342, title VIII, § 813(d)(6), 94 Stat. 1106, related to retirement grade and pay of officers retired under former sections 6371 to 6380 of this title. See section 642 of this title.

Section 6382, acts Aug. 10, 1956, ch. 1041, 70A Stat. 405; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(19), 71 Stat. 384; July 12, 1960, Pub. L. 86–616, § 5(1), 74 Stat. 390; June 28, 1962, Pub. L. 87–509; § 4(b), 76 Stat. 121, related to discharge for failures of selection for promotion of Regular Navy lieutenant and lieutenants (junior grade) and Regular Marine Corps captains and first lieutenants. See section 631 and section 632 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### § 6383. Regular Navy and Regular Marine Corps; officers designated for limited duty: retirement for length of service or failures of selection for promotion; discharge for failures of selection for promotion; reversion to prior status; retired grade; retired pay

(a) MANDATORY RETIREMENT.—(1) Except as provided in subsection (k), each regular officer of the Navy who is an officer designated for limited duty and who is serving in a grade below the grade of commander and each regular officer of the Marine Corps who is an officer designated for limited duty shall be retired on the last day of the month following the month in which he completes 30 years of active naval service, exclusive of active duty for training in a reserve component.

(2) Except as provided in subsection (k), each regular officer of the Navy designated for limited duty who is serving in the grade of commander, has failed of selection for promotion to the grade of captain for the second time, and is not on a list of officers recommended for promotion to the grade of captain shall—

(A) if eligible for retirement as a commissioned officer under any provision of law, be retired under that provision of law on the date requested by the officer and approved by the Secretary of the Navy, except that the date of retirement may not be later than the first day of the seventh month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed for promotion to the grade of captain for a second time; or

(B) if not eligible for retirement as a commissioned officer, be retired on the date requested by the officer and approved by the Secretary of the Navy after the officer becomes eligible for retirement as a commissioned officer, except that the date of retirement may not be later than the first day of the seventh calendar month beginning after the month in which the officer becomes eligible for retirement as a commissioned officer.

(3) Except as provided in subsection (k), if not retired earlier, a regular officer of the Navy designated for limited duty who is serving in the grade of commander and is not on a list of officers recommended for promotion to the grade of captain shall be retired on the last day of the month following the month in which the officer completes 35 years of active naval service, exclusive of active duty for training in a reserve component.

(4) Except as provided in subsection (k), each regular officer of the Navy designated for limited duty who is serving in the grade of captain shall, if not retired sooner, be retired on the last day of the month following the month in which the officer completes 38 years of active naval service, exclusive of active duty for training in a reserve component.

(b) LIEUTENANT COMMANDERS AND MAJORS WHO TWICE FAIL OF SELECTION FOR PROMOTION.—Ex-

cept as provided in subsections (f) and (k), each regular officer on the active-duty list of the Navy serving in the grade of lieutenant commander who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of major who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of commander or lieutenant colonel, respectively, for the second time and whose name is not on a promotion list shall be retired, if eligible to retire, or be discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of commander or lieutenant colonel for the second time.

(c) RETIRED GRADE AND RETIRED PAY.—Each officer retired under subsection (a) or (b)—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade determined under section 1370 of this title; and

(2) is entitled to retired pay computed under section 6333 of this title.

(d) NAVY LIEUTENANTS AND MARINE CORPS CAPTAINS WHO TWICE FAIL OF SELECTION FOR PROMOTION.—Except as provided in subsections (f) and (k), each regular officer on the active-duty list of the Navy serving in the grade of lieutenant who is an officer designated for limited duty, and each regular officer on the active duty list of the Marine Corps serving in the grade of captain who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time and whose name is not on a list of officers recommended for promotion shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time.

(e) OFFICERS IN PAY GRADES O–2 AND O–1 WHO TWICE FAIL OF SELECTION FOR PROMOTION OR ARE FOUND NOT QUALIFIED FOR PROMOTION.—(1) Each regular officer on the active-duty list of the Navy serving in the grade of lieutenant (junior grade) who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of first lieutenant who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of lieutenant (in the case of an officer of the Navy) or captain (in the case of an officer of the Marine Corps) for the second time shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of lieutenant or captain, respectively, for the second time.

(2) Each regular officer on the active-duty list of the Navy serving in the grade of ensign who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of second lieutenant who is an officer designated for limited duty, who is found not qualified for promotion to the grade of lieutenant (junior grade) (in the case of an officer of the Navy) or first lieutenant (in the case of an officer of the Marine Corps) shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the officer was found not qualified for promotion.

(f) 18-YEAR RETIREMENT SANCTUARY.—If an officer subject to discharge under subsection (b), (d), or (e) is (as of the date on which the officer is to be discharged) not eligible for retirement under any provision of law but is within two years of qualifying for retirement under section 6323 of this title, the officer shall be retained on active duty as an officer designated for limited duty until becoming qualified for retirement under that section and shall then be retired under that section, unless the officer is sooner retired or discharged under another provision of law or the officer reverts to a warrant officer grade pursuant to subsection (h).

(g) REENLISTMENT FOR LDOS APPOINTED FROM ENLISTED GRADES.—(1) An officer subject to discharge under subsection (b), (d), or (e) who is described in paragraph (2) may, upon the officer's request and in the discretion of the Secretary of the Navy, be enlisted in a grade prescribed by the Secretary upon the officer's discharge pursuant to such subsection.

(2) An officer described in this paragraph is an officer who—

(A) is not eligible for retirement under any provision of law;

(B) is not covered by subsection (f); and

(C) was in an enlisted grade when first appointed as an officer designated for limited duty.

(h) REVERSION TO WARRANT OFFICER GRADE FOR LDOS APPOINTED FROM WARRANT OFFICER GRADES.—An officer subject to discharge under subsection (b), (d), or (e) (including an officer otherwise subject to retention under subsection (f)) who is not eligible for retirement under any provision of law and who had the permanent status of a warrant officer when first appointed as an officer designated for limited duty may, at the officer's option, revert to the warrant officer grade and status that the officer would hold if the officer had not been appointed as an officer designated for limited duty.

(i) DETERMINATION OF GRADE AND STATUS OF OFFICERS REVERTING TO PRIOR STATUS.—In any computation to determine the grade and status to which an officer may revert under this section, all active service as an officer designated for limited duty or as a temporary or reserve officer is included.

(j) SEPARATION PAY FOR OFFICERS DISCHARGED.—An officer discharged under this sec-

tion is entitled, if eligible therefor, to separation pay under section 1174(a)(1) of this title.

(k) SELECTIVE RETENTION BOARDS FOR LDOS.—Under such regulations as he may prescribe, whenever the needs of the service require, the Secretary of the Navy may defer the retirement under subsection (a) or (b) or the discharge under subsection (b) or (d) of any officer designated for limited duty upon recommendation of a board of officers convened under section 611(b) of this title and with the consent of the officer concerned. An officer whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond 20 years active commissioned service, if in the grade of lieutenant or captain, beyond 24 years active commissioned service, if in the grade of lieutenant commander or major, or beyond 28 years active commissioned service, if in the grade of lieutenant colonel, or beyond age 62, whichever is earlier.

(*l*) APPLICABILITY OF SECTION ONLY TO PERMANENT LDOS.—This section does not apply to officers designated for limited duty under section 5596 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 405; Pub. L. 85–422, § 11(a)(6)(D), May 20, 1958, 72 Stat. 131; Pub. L. 86–616, § 5(2), July 12, 1960, 74 Stat. 390; Pub. L. 87–509, § 4(b), June 28, 1962, 76 Stat. 121; Pub. L. 88–132, § 5(h)(4), Oct. 2, 1963, 77 Stat. 214; Pub. L. 96–342, title VIII, § 813(d)(7), Sept. 8, 1980, 94 Stat. 1106; Pub. L. 96–513, title III, § 336, title V, § 513(17), Dec. 12, 1980, 94 Stat. 2898, 2932; Pub. L. 98–94, title IX, § 922(a)(11), Sept. 24, 1983, 97 Stat. 642; Pub. L. 98–525, title V, § 529(c), Oct. 19, 1984, 98 Stat. 2526; Pub. L. 99–348, title II, § 203(b)(7), July 1, 1986, 100 Stat. 696; Pub. L. 101–510, div. A, title V, § 501(f)(2), Nov. 5, 1990, 104 Stat. 1551; Pub. L. 102–484, div. A, title V, § 504(c), (d), Oct. 23, 1992, 106 Stat. 2403, 2404; Pub. L. 103–160, div. A, title V, § 561(e), Nov. 30, 1993, 107 Stat. 1667; Pub. L. 103–337, div. A, title V, § 503, Oct. 5, 1994, 108 Stat. 2749; Pub. L. 105–261, div. A, title V, § 504(c), (d), Oct. 17, 1998, 112 Stat. 2004.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6383(a)–(h) | 34 U.S.C. 410j(a). | Aug. 7, 1947, ch. 512, § 312(a), 61 Stat. 858. |
| | 34 U.S.C. 626–1(a) (1st sentence). | Aug. 7, 1947, ch. 512, § 314(a) (1st sentence), 61 Stat. 863; May 5, 1954, ch. 180, § 205, 68 Stat. 68. |
| | 34 U.S.C. 626–1(*o*). | Aug. 7, 1947, ch. 512, § 314(*o*), 61 Stat. 865. |
| | 34 U.S.C. 3c(b) (1st sentence). | Aug. 7, 1947, ch. 512, § 302(b) (1st sentence), 61 Stat. 829. |
| 6383(a) ..... | 34 U.S.C. 410j(d). | Aug. 7, 1947, ch. 512, § 312(d), 61 Stat. 859. |
| 6383(b) ..... | 34 U.S.C. 410j(f) (less provisos). | Aug. 7, 1947, ch. 512, § 312(f) (less provisos), 61 Stat. 859. |
| 6383(c) ..... | 34 U.S.C. 389 (1st sentence as applicable to grade). | R.S. 1457 (1st sentence as applicable to grade). |
| | 34 U.S.C. 410j(g) (less provisos). | Aug. 7, 1947, ch. 512, § 312(g) (less provisos), 61 Stat. 860. |
| | 34 U.S.C. 3c(j). | Aug. 7, 1947, ch. 512, § 312(j), 61 Stat. 831. |
| 6383(d), (e), (f). | 34 U.S.C. 410j(h) (as applicable to officers designated for limited duty who fail of selection, less provisos). | Aug. 7, 1947, ch. 512, § 312(h) (as applicable to officers designated for limited duty who fail of selection less provisos), 61 Stat. 860. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| | 34 U.S.C. 410j(m) (less applicability to persons discharged under 34 U.S.C. 410j(*l*)). | Aug. 7, 1947, ch. 512, § 312(m); added June 18, 1954, ch. 311, (b) (less applicability to persons discharged under § 312(*l*)), 68 Stat. 257. |
| 6383(g), (h). | 34 U.S.C. 410j(f) (provisos). | Aug. 7, 1947, ch. 512, § 312(f) (provisos), 61 Stat. 859. |
| | 34 U.S.C. 410j(h) (2d proviso as applicable to officers designated for limited duty who fail of selection). | Aug. 7, 1947, ch. 512, § 312(h) (2d proviso as applicable to officers designated for limited duty who fail of selection), 61 Stat. 860. |

In subsection (a) the words ''if not otherwise retired pursuant to law'' are omitted as surplusage.

In subsection (c) the pay provisions are worded so as to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.).

The second proviso in § 312(g) of the Officer Personnel Act of 1947 (34 U.S.C. 410j(g)), relating to the retired pay of officers commissioned in the Regular Navy under the Act of April 18, 1946, ch. 141, as amended (34 U.S.C. 15), and officers commissioned in the Regular Navy while serving on active duty as officers of the Naval Reserve, is not codified in this section because it is inapplicable to officers designated for limited duty. The only authority to appoint limited duty officers is § 404(a) of the Officer Personnel Act of 1947 (34 U.S.C. 211c(a)). Naval Reserve officers are not eligible for such appointments. Hence there can be no limited duty officers in the categories mentioned in the proviso.

In subsection (f) the words ''to which he would otherwise become entitled'' are omitted as surplusage and the words ''based on the service for which he has received payment'' are substituted for the words ''attributable to the active service in respect of which lump-sum payment shall have been made to him''.

The second proviso in § 312(f) of the Officer Personnel Act of 1947 (34 U.S.C. 410j(f)), which provides that officers who exercise their option to revert to a warrant officer grade shall be retired upon completing 30 years of active naval service, is omitted as superseded by § 14(b)(2) of the Warrant Officer Act of 1954 (34 U.S.C. 430(b)(2)), codified in § 1305 of this title.

AMENDMENTS

1998—Subsec. (a)(5). Pub. L. 105–261, § 504(c), struck out par. (5) which read as follows: ''Paragraphs (2) through (4) shall be effective only during the period beginning on July 1, 1993, and ending on October 1, 1999.''

Subsec. (k). Pub. L. 105–261, § 504(d), struck out at end ''During the period beginning on July 1, 1993, and ending on October 1, 1999, an officer of the Navy in the grade of commander or captain whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond age 62 or, if earlier, 28 years of active commissioned service if in the grade of commander or 30 years of active commissioned service if in the grade of captain.''

1994—Subsec. (a). Pub. L. 103–337, § 503(c)(1), (d)(1), inserted heading and substituted ''Except as provided in subsection (k)'' for ''Except as provided in subsection (i)'' in pars. (1) to (4).

Subsec. (b). Pub. L. 103–337, § 503(c)(2), (d)(2), inserted heading and substituted ''Except as provided in subsections (f) and (k)'' for ''Except as provided in subsection (i)''.

Subsec. (c). Pub. L. 103–337, § 503(d)(3), inserted heading.

Subsec. (d). Pub. L. 103–337, § 503(c)(2), (d)(4), inserted heading and substituted ''Except as provided in subsections (f) and (k)'' for ''Except as provided in subsection (i)''.

Subsec. (e). Pub. L. 103–337, § 503(d)(5), inserted heading.

Subsec. (f). Pub. L. 103–337, § 503(a)(2), added subsec. (f) and struck out former subsec. (f) which read as follows: ''If any officer subject to discharge under subsection (d) or (e) had the permanent status of a warrant officer when first appointed as an officer designated for limited duty, he has the option, instead of being discharged, of reverting to the grade and status he would hold if he had not been so appointed. If any such officer had a permanent grade below the grade of warrant officer, W–1, when first so appointed, he has the option, instead of being discharged, of reverting to the grade and status he would hold if he had not been so appointed but had instead been appointed a warrant officer, W–1.''

Subsecs. (g), (h). Pub. L. 103–337, § 503(a)(2), added subsecs. (g) and (h). Former subsecs. (g) and (h) redesignated (i) and (j), respectively.

Subsec. (i). Pub. L. 103–337, § 503(a)(1), (d)(6), redesignated subsec. (g) as (i) and inserted heading. Former subsec. (i) redesignated (k).

Subsec. (j). Pub. L. 103–337, § 503(a)(1), (d)(7), redesignated subsec. (h) as (j) and inserted heading. Former subsec. (j) redesignated (*l*).

Subsec. (k). Pub. L. 103–337, § 503(a)(1), (b), (d)(8), redesignated subsec. (i) as (k), inserted heading, and substituted ''or the discharge under subsection (b) or (d)'' for ''or the discharge under subsection (d)''.

Subsec. (*l*). Pub. L. 103–337, § 503(a)(1), (d)(9), redesignated subsec. (j) as (*l*) and inserted heading.

1993—Subsecs. (a)(5), (i). Pub. L. 103–160 substituted ''October 1, 1999'' for ''October 1, 1995''.

1992—Subsec. (a). Pub. L. 102–484, § 504(c), designated existing provisions as par. (1) and added pars. (2) to (5).

Subsec. (i). Pub. L. 102–484, § 504(d), inserted at end ''During the period beginning on July 1, 1993, and ending on October 1, 1995, an officer of the Navy in the grade of commander or captain whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond age 62 or, if earlier, 28 years of active commissioned service if in the grade of commander or 30 years of active commissioned service if in the grade of captain.''

1990—Subsec. (h). Pub. L. 101–510 substituted ''section 1174(a)(1)'' for ''section 1174(a)''.

1986—Subsec. (c)(2). Pub. L. 99–348, § 203(b)(7)(A), substituted provision that retired pay be computed under section 6333 for provision that retired pay, in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), before Sept. 8, 1980, be at the rate of 2½ percent of the basic pay to which he would have been entitled if serving on active duty in the grade in which he retired, or in the case of an officer who first became a member of a uniformed service, as defined in section 1407(a)(2), on or after Sept. 8, 1980, be at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d), which rates were to be multiplied by the number of years of service credited under section 1405, but such retired pay was not to be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay was based.

Subsec. (k). Pub. L. 99–348, § 203(b)(7)(B), struck out subsec. (k) which provided that retired pay computed under subsec. (c), if not a multiple of $1, was to be rounded to the next lower multiple of $1.

1984—Subsec. (a). Pub. L. 98–525, § 529(c)(1), substituted ''each regular officer of the Navy who is an officer designated for limited duty and who is serving in a grade below the grade of commander and each regular officer of the Marine Corps who is an officer'' for ''each regular officer of the Navy or Marine Corps''.

Subsec. (d). Pub. L. 98–525, § 529(c)(2), substituted ''Except as provided in subsection (i), each'' for ''Each''.

Subsec. (i). Pub. L. 98–525, § 529(c)(3), inserted ''or the discharge under subsection (d)'' after ''the retirement under subsection (a) or (b)'' and substituted ''An officer whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond 20 years active commissioned service, if in the grade of lieutenant or captain, beyond 24 years active commissioned service, if in the grade of lieutenant commander or major, or beyond 28 years active commissioned service, if in the grade of lieutenant colonel, or beyond age 62, whichever is earlier'' for ''An officer whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond 24 years active commissioned service, if in the grade of lieutenant commander or major or 28 years active commissioned service, if in the grade of commander or lieutenant colonel, or beyond age 62, whichever is earlier''.

1983—Subsec. (k). Pub. L. 98–94 added subsec. (k).

1980—Pub. L. 96–513, § 336(i), struck out ''or severance'' before ''pay'' in section catchline.

Subsec. (a). Pub. L. 96–513, § 336(a), substituted ''Except as provided in subsection (i), each regular officer of the Navy or Marine Corps designated for limited duty'' for ''Each officer designated for limited duty on the active list of the Navy or Marine Corps''.

Subsec. (b). Pub. L. 96–513, § 336(b), authorized the discharge of certain officers considered as having failed of selection for promotion and provided that in cases of retirement such retirements were to occur on a date requested by the officer concerned and approved by the Secretary of the Navy but not later than the first day of the seventh calendar month beginning after the month in which the President approved the report of the selection board rather than on June 30th of the fiscal year in which such officer was considered as having failed of selection.

Subsec. (c)(1). Pub. L. 96–513, § 336(c), substituted ''determined under section 1370 of this title'' for ''in which he was serving at the time of retirement''.

Subsec. (c)(2). Pub. L. 96–513, § 513(17), substituted ''September 8, 1980'' for ''the date of the enactment of the Department of Defense Authorization Act, 1981'' wherever appearing.

Pub. L. 96–342, designated existing provisions as subpar. (A), inserted provision limiting applicability to officers who became members of the uniformed services before the date of the enactment of the Department of Defense Authorization Act, 1981, and added subpar. (B).

Subsec. (d). Pub. L. 96–513, § 336(d), provided that Navy lieutenants designated for limited duty and Marine Corps captains similarly designated who were considered as having failed of selection for promotion were to be honorably discharged on a date requested by the officer concerned and approved by the Secretary of the Navy but not later than the first day of the seventh calendar month beginning after the month in which the President approved the report of the selection board rather than on June 30th of the fiscal year in which he was considered as having failed of selection.

Subsec. (e). Pub. L. 96–513, § 336(d), designated existing provisions as par. (1), provided that Navy lieutenants (junior grade) designated for limited duty and Marine Corps first lieutenants similarly designated who were considered as having failed of selection for promotion were to be honorably discharged on a date requested by the officer concerned and approved by the Secretary of the Navy but not later than the first day of the seventh calendar month beginning after the month in which the President approved the report of the selection board rather than on June 30th of the fiscal year in which he was considered as having failed of selection, and added par. (2).

Subsec. (f). Pub. L. 96–513, § 336(e), (f), redesignated subsec. (g) as (f), substituted ''discharge under subsection (d)'' for ''retirement or discharge under subsections (b), (d)'' and ''instead of being discharged'' for ''instead of being retired or discharged'' in two places, and struck out former subsec. (f) authorizing a lump-sum severance payment to certain discharged officers.

Subsecs. (g) to (j). Pub. L. 96–513, § 336(f)–(h), added subsecs. (h) to (j) and redesignated existing subsecs. (g) and (h) as (f) and (g), respectively.

1963—Subsec. (c)(2). Pub. L. 88–132 substituted ''of'' for ''to which he would be entitled if serving on active duty in'' after ''2½ percent of the basic pay''.

1962—Subsec. (f). Pub. L. 87–509 limited the lump-sum payment to not more than $15,000.

1960—Subsec. (d). Pub. L. 86–616 permits an officer, if he so requests, to be honorably discharged at any time during the fiscal year in which he is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time.

Subsec. (e). Pub. L. 86–616 permits an officer, if he so requests, to be honorably discharged at any time during the fiscal year in which he is considered as having failed of selection for promotion to the grade of lieutenant or captain for the second time.

1958—Subsec. (c)(2). Pub. 85–422 substituted ''that may be credited to him under section 1405 of this title'' for ''creditable for basic pay''.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–94 effective Oct. 1, 1983, see section 922(e) of Pub. L. 98–94, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 336 of 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, and amendment by section 513(17) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as a note under section 201 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–422 effective June 1, 1958, see section 9 of Pub. L. 85–422.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

For transition provisions relating to limited-duty officers of the Regular Navy or Regular Marine Corps, see section 616 of Pub. L. 96–513, set out as a note under section 611 of this title.

## [§§ 6384 to 6388. Repealed. Pub. L. 96–513, title III, § 335, Dec. 12, 1980, 94 Stat. 2898]

Section 6384, acts Aug. 10, 1956, ch. 1041, 70A Stat. 407; July 12, 1960, Pub. L. 86–616, § 5(3), 74 Stat. 390; June 28, 1962, Pub. L. 87–509, § 4(b), 76 Stat. 121; Sept. 30, 1966, Pub. L. 89–609, § 1(18), (19), 80 Stat. 853; Sept. 19, 1978, Pub. L. 95–377, § 8(a), 92 Stat. 721, related to discharge of Regular Navy and Regular Marine Corps officers having less than 20 years service for unsatisfactory performance of duty. See section 1181 et seq. of this title.

Section 6385, acts Aug. 10, 1956, ch. 1041, 70A Stat. 408; Sept. 19, 1978, Pub. L. 95–377, § 8(b), (c), 92 Stat. 721, provided that for purposes of involuntary retirement, separation, or furlough, an officer serving in a grade to which he was appointed under former sections 5231, 5232, 5787 or 5787d of this title was to be considered as serving in a grade he would have held had it not been for such appointment. See section 627 et seq. of this title.

Section 6386, acts Aug. 10, 1956, ch. 1041, 70A Stat. 408; Apr. 21, 1976, Pub. L. 94–273, § 2(3), 90 Stat. 375, authorized President to suspend certain provisions relating to officers serving in grades of lieutenant and lieutenant (junior grade) in Navy or in grades of captain and first lieutenant in Marine Corps. See section 123(a), (b) of this title.

Section 6387, acts Aug. 10, 1956, ch. 1041, 70A Stat. 408; Aug. 11, 1959, Pub. L. 86–155, § 6, 73 Stat. 337; June 30, 1960, Pub. L. 86–558, 74 Stat. 263; Oct. 13, 1964, Pub. L. 88–647, title III, § 301(16), 78 Stat. 1072, related to computation of total commissioned service for regular Navy male line officers and regular Marine Corps male officers.

Section 6388, acts Aug. 10, 1956, ch. 1041, 70A Stat. 409; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(20), 71 Stat. 385; Sept. 30, 1966, Pub. L. 89–609, § 1(20), (21), 80 Stat. 853; Sept. 20, 1968, Pub. L. 90–502, § 1, 82 Stat. 852; Dec. 24, 1970, Pub. L. 91–582, § 1, 84 Stat. 1574, related to computation of total commissioned service for certain Regular Navy staff corps officers.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## § 6389. Navy Reserve and Marine Corps Reserve; officers: elimination from active status; computation of total commissioned service

(a) Subject to section 12645 of this title, an officer in an active status in the Navy Reserve in the permanent grade of lieutenant or lieutenant (junior grade), and an officer in an active status in the Marine Corps Reserve in the permanent grade of captain or first lieutenant, who is considered as having twice failed of selection for promotion to the next higher grade while on the active-duty list may, in the discretion of the Secretary of the Navy, be eliminated from an active status or released from active duty and placed on the reserve active-status list.

(b) An officer who is to be eliminated from an active status under subsection (a) shall, if qualified, be given an opportunity to request transfer to the appropriate Retired Reserve and, if he requests it, shall be so transferred. If he is not so transferred, he shall, in the discretion of the Secretary, be transferred to the appropriate inactive status list or be discharged from the Navy Reserve or the Marine Corps Reserve.

(c)(1) An officer in an active status in the Navy Reserve in the permanent grade of lieutenant commander or commander, and an officer in an active status in the Marine Corps Reserve in the permanent grade of major or lieutenant colonel, who is considered as having twice failed of selection for promotion to the next higher grade while on the active-duty list shall, if qualified, be given an opportunity to request transfer to the appropriate Retired Reserve. If he is not so transferred, he shall be discharged from the Navy Reserve or the Marine Corps Reserve if he has completed a period of total commissioned service equal to that specified below for the permanent grade in which he is serving:

| *Grade* | | *Total commissioned service* |
|---|---|---|
| *Navy* | *Marine Corps* | |
| Commander | Lieutenant colonel. | 28 years. |
| Lieutenant commander | Major | 20 years. |

(2) Notwithstanding the first sentence of paragraph (1), the Secretary may defer the retirement or discharge of such number of officers serving in the grade of lieutenant commander as are necessary to maintain the authorized officer strength of the Ready Reserve, but the duration of such deferment for any individual officer may not be in excess of five years.

(3) Notwithstanding paragraph (1), the Secretary may defer the retirement or discharge under this subsection of an officer serving in the permanent grade of lieutenant commander or

commander in the Navy Reserve or in the permanent grade of major or lieutenant colonel in the Marine Corps Reserve for a period of time which does not exceed the amount of service in an active status which was credited to the officer at the time of his original appointment or thereafter under any provision of law, if the officer can complete at least 20 years of service as computed under section 12732 of this title during the period of such deferment.

(4) Notwithstanding paragraph (1), the Secretary may defer the retirement or discharge under this subsection of such number of officers serving in the permanent grade of commander in the Medical Corps, Chaplain Corps, or Dental Corps in the Navy Reserve as are necessary to provide for mobilization requirements.

(d) For the purposes of subsection (c), the total commissioned service of an officer who has served continuously in the Navy Reserve or the Marine Corps Reserve following appointment therein in the permanent grade of ensign or second lieutenant, as the case may be, shall be computed from June 30 of the fiscal year in which he accepted the appointment. Each other officer is considered to have for this purpose as much total commissioned service as the years of active commissioned service of any regular officer on the active-duty list of the Navy not restricted in the performance of duty, or any regular officer on the active-duty list of the Marine Corps not restricted in the performance of duty, as appropriate, who has served continuously since original appointment as an ensign on the active-duty list of the Navy or as a second lieutenant on the active-duty list of the Marine Corps, has not lost numbers or precedence, and is, or has been after September 6, 1947, junior to that other officer. However, the total commissioned service that the other officer is considered to have may not be less than the actual number of years he has served as a commissioned officer in a grade above chief warrant officer, W–5.

(Added Pub. L. 85–861, § 1(144)(A), Sept. 2, 1958, 72 Stat. 1509; amended Pub. L. 86–559, § 1(46), June 30, 1960, 74 Stat. 274; Pub. L. 96–513, title III, § 337(a), Dec. 12, 1980, 94 Stat. 2900; Pub. L. 97–86, title IV, § 405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 98–525, title V, § 528(c), Oct. 19, 1984, 98 Stat. 2526; Pub. L. 99–145, title V, § 514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 102–190, div. A, title XI, § 1131(8)(A), Dec. 5, 1991, 105 Stat. 1506; Pub. L. 103–337, div. A, title XVI, §§ 1628, 1673(c)(1), Oct. 5, 1994, 108 Stat. 2962, 3016; Pub. L. 104–106, div. A, title XV, § 1501(c)(25), Feb. 10, 1996, 110 Stat. 499; Pub. L. 109–163, div. A, title V, § 515(b)(1)(M), (3)(C), Jan. 6, 2006, 119 Stat. 3233, 3234.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6389(a) ..... | 50:1311(c) (1st sentence). | Sept. 3, 1954, ch. 1257, § 411(c) (1st sentence), 68 Stat. 1170. |
| 6389(b) ..... | 50:1311(a) (as applicable to 1311(c)). | Sept. 3, 1954, ch. 1257, § 411(a) (as applicable to 411(c)), 68 Stat. 1169. |
| 6389(c) ..... | 50:1311(c) (2d sentence). | Sept. 3, 1954, ch. 1257, § 411(c) (2d sentence), 68 Stat. 1170. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6389(d) ..... | 50:1311(c) (less 1st and 2d sentences). | Sept. 3, 1954, ch. 1257, § 411(c) (less 1st and 2d sentences), 68 Stat. 1170. |
| 6389(e) ..... | [No source]. | [No source]. |

In subsection (a), the words ''who is considered as having twice failed of selection for promotion'' are substituted for the words ''after failing of selection for promotion * * * a second time'' to conform to similar statements in this title. (See the revision note on section 5776.) The words ''may be retained in'' are omitted as surplusage, since the authority to eliminate such officers from an active status is discretionary with the Secretary.

Subsection (e) is added to avoid conflict with 50:1311(d) and (e), codified in sections 6397 and 6403 of this title. 50:1311(d) and (e) contain special provisions for ''women officers'' and officers in the Nurse Corps, respectively, so that officers in these categories must be excepted from this section. Women officers appointed under the act of June 24, 1952, ch. 457 (66 Stat. 155; 34 U.S.C. 21e) (codified in section 5581 of this title), are not ''women officers'' within the meaning of 50:1311(d), however, but are required to be promoted, retired, or eliminated from active status as if they were men. (See the revision note on section 5665 of this title.) The application of this section to these officers is therefore made explicit.

Both men and women are eligible for appointment as reserve officers in the Nurse Corps and are subject to the special provisions relating to that corps.

AMENDMENTS

2006—Pub. L. 109–163, § 515(b)(3)(C), substituted ''Navy Reserve'' for ''Naval Reserve'' in section catchline.

Pub. L. 109–163, § 515(b)(1)(M), substituted ''Navy Reserve'' for ''Naval Reserve'' wherever appearing in text.

1996—Subsec. (c). Pub. L. 104–106 substituted ''section 12732'' for ''section 1332''.

1994—Subsec. (a). Pub. L. 103–337, § 1673(c), substituted ''12645'' for ''1005''.

Pub. L. 103–337, § 1628(1), inserted ''while on the active-duty list'' after ''to the next higher grade'' and ''or released from active duty and placed on the reserve active-status list'' after ''from an active status''.

Subsec. (b). Pub. L. 103–337, § 1628(2), struck out ''or (f)'' after ''subsection (a)''.

Subsec. (c). Pub. L. 103–337, § 1628(3)(H), designated last sentence as par. (4) and in that sentence substituted ''paragraph (1)'' for ''the first two sentences of this subsection'' and struck out ''captain or'' after ''permanent grade of''.

Pub. L. 103–337, § 1628(3)(G), designated 4th sentence as par. (3) and in that sentence substituted ''paragraph (1)'' for ''the first two sentences of this subsection''.

Pub. L. 103–337, § 1628(3)(F), designated sentence after table as par. (2) and in that sentence substituted ''the first sentence of paragraph (1)'' for ''the first sentence of this subsection''.

Pub. L. 103–337, § 1628(3)(E), in table struck out line relating to grades of captain in Navy and colonel in Marine Corps and substituted ''28 years'' for ''26 years''.

Pub. L. 103–337, § 1628(3)(D), inserted ''while on the active-duty list'' after ''to the next higher grade'' in first sentence.

Pub. L. 103–337, § 1628(3)(C), substituted ''major or lieutenant colonel'' for ''major or above'' in two places.

Pub. L. 103–337, § 1628(3)(B), substituted ''lieutenant commander or commander'' for ''lieutenant commander or above'' in two places.

Pub. L. 103–337, § 1628(3)(A), inserted ''(1)'' after ''(c)''.

Subsec. (e). Pub. L. 103–337, § 1628(4), struck out subsec. (e) which read as follows: ''This section does not apply to women reserve officers or to reserve officers in the Nurse Corps.''

Subsec. (f). Pub. L. 103–337, § 1628(4), struck out subsec. (f) which provided for transfer or discharge of rear

admirals (lower half) in Naval Reserve and brigadier generals in Marine Corps Reserve on completion of 30 years service or five years in grade and for rear admirals in Naval Reserve and major generals in Marine Corps Reserve on completion of 35 years service or five years in grade and provided that rear admirals (lower half) and rear admirals in Naval Reserve and brigadier generals and major generals in Marine Corps Reserve could be considered for early retirement by continuation board. See sections 14508 and 14705 of this title.

Subsec. (g). Pub. L. 103–337, §1628(4), struck out subsec. (g) which read as follows: ''An officer in an active status in the Naval Reserve in the permanent grade of ensign who is found not qualified for promotion to the grade of lieutenant (junior grade), and an officer in an active status in the Marine Corps Reserve in the permanent grade of second lieutenant who is found not qualified for promotion to the grade of first lieutenant, may (unless he is sooner promoted) be eliminated from an active status.''

1991—Subsec. (d). Pub. L. 102–190 substituted ''W–5'' for ''W–4''.

1985—Subsec. (f)(1), (3). Pub. L. 99–145 substituted ''rear admiral (lower half)'' for ''commodore''.

1984—Subsec. (g). Pub. L. 98–525 added subsec. (g).

1981—Subsec. (f)(1), (3). Pub. L. 97–86 substituted ''commodore'' for ''commodore admiral''.

1980—Subsec. (b). Pub. L. 96–513, §337(a)(1), substituted ''subsection (a) or (f)'' for ''subsection (a)''.

Subsec. (d). Pub. L. 96–513, §337(a)(2), substituted ''as the years of active commissioned service of any regular officer on the active-duty'' for ''as any officer in the line on the active'' and ''or any regular officer on the active-duty list of the Marine Corps'' for ''or any officer on the active list of the Marine Corps''.

Subsec. (e). Pub. L. 96–513, §337(a)(3), substituted ''does not apply to'' for ''applies to women officers appointed under section 5581 of this title, but not to other''.

Subsec. (f). Pub. L. 96–513, §337(a)(4), added subsec. (f).

1960—Subsec. (c). Pub. L. 86–559 empowered the Secretary to defer the retirement or discharge of officers serving in the grade of lieutenant commander in the Ready Reserve, in the permanent grade of lieutenant commander or above in the Naval Reserve, in the permanent grade of major or above in the Marine Corps Reserve, and in the permanent grade of captain or commander in the Medical Corps, Chaplain Corps, or Dental Corps in the Naval Reserve.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1501(c) of Pub. L. 104–106 provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1673(c)(1) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1628 of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 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.

### [§ 6390. Repealed. Pub. L. 96–513, title III, § 335, Dec. 12, 1980, 94 Stat. 2898]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 410; May 20, 1958, Pub. L. 85–422, §11(a)(6)(E), 71 Stat. 131; Oct. 2, 1963, Pub. L. 88–132, §5(h)(4), 77 Stat. 214; Sept. 8, 1980, Pub. L. 96–342, title VIII, §813(d)(8), 94 Stat. 1107, related to the retirement at age 62 of officers on the active list of the Navy and officers of the Marine Corps. See section 1251 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§§ 6391, 6392. Repealed. Pub. L. 103–337, div. A, title XVI, § 1629(b)(3), Oct. 5, 1994, 108 Stat. 2963]

Section 6391, added Pub. L. 85–861, §1(144)(B), Sept. 2, 1958, 72 Stat. 1510; amended Pub. L. 86–559, §1(47), June 30, 1960, 74 Stat. 275; Pub. L. 102–190, div. A, title XI, §1131(8)(A), Dec. 5, 1991, 105 Stat. 1506; Pub. L. 104–106, div. A, title XV, §1501(c)(25), Feb. 10, 1996, 110 Stat. 499, related to transfer to Retired Reserve of officers in Naval Reserve or Marine Corps Reserve above chief warrant officer, W–5, on becoming 62 years of age with provisions for deferral of retirement until age 64. See section 14512(b) of this title.

Section 6392, added Pub. L. 100–180, div. A, title VII, §717(b)(1), Dec. 4, 1987, 101 Stat. 1114; amended Pub. L. 101–189, div. A, title VII, §§710(b), 711(b), Nov. 29, 1989, 103 Stat. 1476, 1477, related to retention in active status of certain reserve officers. See section 14703(a)(2), (b) of this title.

A prior section 6392, act Aug. 10, 1956, ch. 1041, 70A Stat. 410, related to revocation of appointments of Regular Navy and Marine Corps officers with less than three years service, prior to repeal effective Sept. 15, 1981, by Pub. L. 96–513, title III, §335, title VII, §701, Dec. 12, 1980, 94 Stat. 2898, 2955.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

### [§ 6393. Repealed. Pub. L. 96–513, title III, § 373(h), Dec. 12, 1980, 94 Stat. 2903]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 410, authorized Secretary of Navy to terminate appointment of any woman officer in Regular Navy or Regular Marine Corps.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§§ 6394 to 6396. Repealed. Pub. L. 96–513, title III, § 335, Dec. 12, 1980, 94 Stat. 2898]

Section 6394, acts Aug. 10, 1956, ch. 1041, 70A Stat. 410; May 20, 1958, Pub. L. 85–422, §11(a)(6)(F), 72 Stat. 131; Sept. 2, 1958, Pub. L. 85–861, §1(144)(C), 72 Stat. 1511; Oct. 2, 1963, Pub. L. 88–132, §5(h)(4), 77 Stat. 214; Sept. 8, 1980, Pub. L. 96–342, title VIII, §813(d)(9), 94 Stat. 1107, related to the retirement upon board recommendation of Regular Navy rear admirals and commodores and Regular Marine Corps major generals and brigadier generals.

Section 6395, acts Aug. 10, 1956, ch. 1041, 70A Stat. 411; Aug. 21, 1957, Pub. L. 85–155, title II, §201(21), 71 Stat. 385; Sept. 30, 1966, Pub. L. 89–609, §1(22), 80 Stat. 853, related to discharge during time of war and national

emergency of Regular Navy and Regular Marine Corps officers with less than 20 years of service for unsatisfactory performance of duty. See section 1181 et seq. of this title.

Section 6396, acts Aug. 10, 1956, ch. 1041, 70A Stat. 413; Aug. 21, 1957, Pub. L. 85–155, title II, § 201(22), 71 Stat. 385; May 20, 1958, Pub. L. 85–422, § 11(a)(6)(G), 72 Stat. 131; Oct. 2, 1963, Pub. L. 88–132, § 5(h)(6), 77 Stat. 214; Sept. 30, 1966, Pub. L. 89–609 § 1(23)–(26), 80 Stat. 853, 854; Nov. 8, 1967, Pub. L. 90–130, § 1(24)(E), 81 Stat. 380; Sept. 8, 1980, Pub. L. 96–342, title VIII, § 813(d)(10), 94 Stat. 1107, related to retirement or discharge of Regular Navy officers in Nurse Corps in grades below commander.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§ 6397. Repealed. Pub. L. 103–337, div. A, title XVI, § 1629(b)(3), Oct. 5, 1994, 108 Stat. 2963]

Section, added Pub. L. 85–861, § 1(144)(D), Sept. 2, 1958, 72 Stat. 1511; amended Pub. L. 89–609, § 1(27), Sept. 30, 1966, 80 Stat. 854; Pub. L. 96–513, title III, § 338, Dec. 12, 1980, 94 Stat. 2901, related to elimination from active status of officers of Naval Reserve in Nurse Corps.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

### [§ 6398. Repealed. Pub. L. 96–513, title III, § 335, Dec. 12, 1980, 94 Stat. 2898]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 413; May 20, 1958, Pub. L. 85–422, § 11(a)(6)(H), 72 Stat. 131; Oct. 2, 1963, Pub. L. 88–132, § 5(h)(6), 77 Stat. 214; Nov. 8, 1967, Pub. L. 90–130, § 1(24)(F), 81 Stat. 381; Sept. 8, 1980, Pub. L. 96–342, title VIII, § 813(d)(11), 94 Stat. 1108, related to retirement for length of service of Regular Navy women captains and commanders and Regular Marine Corps women colonels and lieutenant colonels and their respective grades and pay. See sections 633 and 634 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§ 6399. Repealed. Pub. L. 90–130, § 1(24)(G), Nov. 8, 1967, 81 Stat. 382]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 414; May 20, 1958, Pub. L. 85–422, § 11(a)(6)(I), 72 Stat. 131; Oct. 2, 1963, Pub. L. 88–132, § 5(h)(6), 77 Stat. 214, provided for retirement of women lieutenant commanders and below of Regular Navy and women majors and below of Regular Marine Corps at age 50 and their retired grade and pay.

### [§§ 6400 to 6402. Repealed. Pub. L. 96–513, title III, § 335, Dec. 12, 1980, 94 Stat. 2898]

Section 6400, acts Aug. 10, 1956, ch. 1041, 70A Stat. 414; May 20, 1958, Pub. L. 85–422, § 11(a)(6)(J), 72 Stat. 131; Oct. 2, 1963, Pub. L. 88–132, § 5(h)(6), 77 Stat. 214; Sept. 8, 1980, Pub. L. 96–342, title VIII, § 813(d)(12), 94 Stat. 1108, related to retirement for length of service of Regular Navy women lieutenant commanders and Regular Marine Corps women majors.

Section 6401, acts Aug. 10, 1956, ch. 1041, 70A Stat. 415; July 12, 1960, Pub. L. 86–616, § 5(4), 74 Stat. 390; June 28, 1962, Pub. L. 87–509, § 4(b), 76 Stat. 121, related to discharge for length of service of Regular Navy women lieutenants and Regular Marine Corps women captains.

Section 6402, acts Aug. 10, 1956, ch. 1041, 70A Stat. 415; July 12, 1960, Pub. L. 86–616, § 5(5), 74 Stat. 390, related to discharge for length of service of Regular Navy women lieutenants (junior grade) and Regular Marine Corps women first lieutenants.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§ 6403. Repealed. Pub. L. 103–337, div. A, title XVI, § 1629(b)(3), Oct. 5, 1994, 108 Stat. 2963]

Section, added Pub. L. 85–861, § 1(144)(E), Sept. 2, 1958, 72 Stat. 1511; amended Pub. L. 96–513, title V, § 503(49), Dec. 12, 1980, 94 Stat. 2915; Pub. L. 97–22, § 10(b)(10)(B), July 10, 1981, 95 Stat. 137, related to elimination from active status of women officers in Naval Reserve and Marine Corps Reserve.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

### § 6404. Treatment of fractions of years of service in computing retired pay and separation pay

In determining the total number of years of service to be used as a multiplier in computing retired pay and separation pay on discharge under this chapter, each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.

(Aug. 10, 1956, ch. 1041, 70A Stat. 415; Pub. L. 96–513, title V, § 503(50), Dec. 12, 1980, 94 Stat. 2915; Pub. L. 98–94, title IX, § 923(c)(4), Sept. 24, 1983, 97 Stat. 643.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6404 ..... | 34 U.S.C. 410c(a) (1st proviso). | Feb. 21, 1946, ch. 34, § 7 (a) (1st proviso), 60 Stat. 27; Aug. 7, 1947, ch. 512, § 432(a), 61 Stat. 881. |
| | 34 U.S.C. 410j(g) (1st proviso). | Aug. 7, 1947, ch. 512, § 312(g) (1st proviso), 61 Stat. 860. |
| | 34 U.S.C. 410d (1st proviso). | Feb. 21, 1946, ch. 34, § 9 (1st proviso), 60 Stat. 28; Aug. 7, 1947, ch. 512, § 432(b), 61 Stat. 881. |
| | 34 U.S.C. 410j(h) (1st proviso). | Aug. 7, 1947, ch. 512, § 312(h) (1st proviso), 61 Stat. 860. |
| | 34 U.S.C. 410r(h). | June 12, 1948, ch. 449, § 207(h), 62 Stat. 368. |
| | 34 U.S.C. 410r(j) (proviso). | June 12, 1948, ch. 449, § 207(j) (proviso), 62 Stat. 366. |
| | 34 U.S.C. 43g(g). | Apr. 16, 1947, ch. 38, § 207(h), 61 Stat. 50; redesignated (g), Aug. 7, 1947, ch. 512, § 434(d), 61 Stat. 882; May 16, 1950, ch. 186, § 3(j), 64 Stat. 162. |
| | 34 U.S.C. 625h(a). | June 12, 1948, ch. 449, § 213(a), 62 Stat. 369. |

The words ''and a part of a year that is less than six months is disregarded'' are added for clarity. The legislative history of the Career Compensation Act of 1949, which contains a provision identical to those codified in this section, indicates that all of these provisions are construed as requiring a fractional year of less than six months to be disregarded (hearing before the Committee on Armed Services of the Senate on H.R. 5007, 81st Cong., 1st sess., p. 313, July 6, 1949).

AMENDMENTS

1983—Pub. L. 98–94 substituted ''each full month of service that is in addition to the number of full years

of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded'' for ''a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded''.

1980—Pub. L. 96–513 substituted ''separation pay'' for ''severance pay'' in section catchline and substituted ''separation pay'' for ''lump-sum payments'' in text.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–94 applicable with respect to the computation of retired or retainer pay of any individual who becomes entitled to that pay after Sept. 30, 1983, see section 923(g) of Pub. L. 98–94, set out as a note under section 1174 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.

### [§ 6405. Repealed. Pub. L. 90–235, § 4(a)(12), Jan. 2, 1968, 81 Stat. 760]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 415, provided that an officer of Regular Navy, other than a retired officer, who accepted an appointment in the Foreign Service was considered as having resigned from the Navy. See section 973 of this title.

### [§ 6406. Repealed. Pub. L. 91–482, § 1(a), Oct. 21, 1970, 84 Stat. 1082]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 415; Pub. L. 87–649, § 14c(47), Sept. 6, 1962, 76 Stat. 501, authorized Secretary of Navy to furlough any officer of Regular Navy or Regular Marine Corps, other than a retired officer.

### [§ 6407. Repealed. Pub. L. 96–513, title III, § 335, Dec. 12, 1980, 94 Stat. 2898]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 416, related to communication with selection boards by officers eligible for consideration for continuation on active list. See section 614 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### § 6408. Navy and Marine Corps; warrant officers, W–1: limitation on dismissal

(a) No officer who holds the grade of warrant officer, W–1, may be dismissed from the Navy or the Marine Corps except in time of war, by order of the President.

(b) The President may drop from the rolls of the Navy or the Marine Corps any officer who holds the grade of warrant officer, W–1, who—

(1) has been absent without authority for at least three months; or

(2) is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final.

(Aug. 10, 1956, ch. 1041, 70A Stat. 416.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6408 ..... | 50 U.S.C. 739 (as applicable to warrant officers, W–1, of the Navy and the Marine Corps). | May 5, 1950, ch. 169, § 10 (as applicable to warrant officers, W–1, of the Navy and the Marine Corps), 64 Stat. 146. |

This section reflects the opinion of the Judge Advocate General of the Navy (JAG:I:2:ERS:cmr, dtd. 13 April 1954) that 50 U.S.C. 739 applies to warrant officers (now warrant officers, W–1), of the Navy and the Marine Corps. The Warrant Officer Act of 1954 established the grade of warrant officer, W–1, in lieu of the former warrant officer (as distinguished from commissioned warrant officer) grades. 50 U.S.C. 739, as applicable to officers above the grade of warrant officer, W–1, is codified in § 1161 of this title.

In subsection (a) the words ''by sentence of a general court-martial, or in commutation thereof'' are omitted since the separation from the service of a warrant officer, W–1, by sentence of court-martial is effected by dishonorable discharge.

In subsection (b) the words ''from his place of duty'' are omitted as surplusage. The words ''at least'' are substituted for the words ''or more''. The words ''by a court other than a court-martial or other military court'' are substituted for the words ''by the civil authorities''.

### [§ 6409. Repealed. Pub. L. 90–235, § 3(b)(1), Jan. 2, 1968, 81 Stat. 758]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 416, provided for suspension of laws for mandatory retirement or separation during war or emergency of temporary warrant officers of Navy and Marine Corps.

### [§ 6410. Repealed. Pub. L. 103–337, div. A, title XVI, § 1629(b)(3), Oct. 5, 1994, 108 Stat. 2963]

Section, added Pub. L. 85–861, § 1(144)(F), Sept. 2, 1958, 72 Stat. 1512; amended Pub. L. 104–106, div. A, title XV, § 1501(c)(28), Feb. 10, 1996, 110 Stat. 500, related to elimination from active status of officers in Naval Reserve and Marine Corps Reserve to provide a flow of promotion.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

## CHAPTER 575—RECALL TO ACTIVE DUTY

Sec.
[6481, 6482. Repealed.]
6483. Retired members: grade.
6484. Promotion of retired members to higher enlisted grades: retention of grade upon release from active duty.
6485. Members of the Fleet Reserve and Fleet Marine Corps Reserve: authority to recall.
6486. Members of the Fleet Reserve and Fleet Marine Corps Reserve: release from active duty.
[6487, 6488. Repealed.]

AMENDMENTS

1984—Pub. L. 98–525, title V, § 533(f)(2), Oct. 19, 1984, 98 Stat. 2528, struck out item 6482 ''Retired enlisted members of the Regular Navy and Regular Marine Corps: authority to recall.''

1980—Pub. L. 96–513, title V, § 503(51), Dec. 12, 1980, 94 Stat. 2915, struck out items 6481 ''Retired officers of the Regular Navy and Regular Marine Corps: authority to recall'', 6487 ''Retired rear admirals: retired pay after two years of active duty'', and 6488 ''Wartime appoint-

ments or promotions: retention of grade upon release from active duty''.

### [§ 6481. Repealed. Pub. L. 96–513, title III, § 362(a), Dec. 12, 1980, 94 Stat. 2903]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 416, related to authority to recall retired officers of Regular Navy and Regular Marine Corps. See section 688 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§ 6482. Repealed. Pub. L. 98–525, title V, § 533(f)(1), Oct. 19, 1984, 98 Stat. 2528]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 417, provided that in time of war or national emergency Secretary of Navy could order to active duty any retired enlisted member of Regular Navy or Regular Marine Corps.

### § 6483. Retired members: grade

An officer who has been advanced on the retired list or in the Retired Reserve under former section 6150 of this title to a grade above captain in the Navy or above colonel in the Marine Corps, when recalled to active duty, may, in the discretion of the Secretary of the Navy, be recalled either in the grade he holds on the retired list or in the Retired Reserve or in the grade from which he was advanced.

(Aug. 10, 1956, ch. 1041, 70A Stat. 417; Pub. L. 85–422, § 6(5), May 20, 1958, 72 Stat. 129; Pub. L. 88–132, § 5(m), Oct. 2, 1963, 77 Stat. 215; Pub. L. 90–623, § 2(10), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 96–513, title III, § 363, Dec. 12, 1980, 94 Stat. 2903.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6483 ..... | 34 U.S.C. 410n (1st proviso). | Aug. 7, 1947, ch. 512, § 412(a) (1st proviso), 61 Stat. 874; Oct. 12, 1949, ch. 681, § 522(a), 63 Stat. 835. |
| | 50 U.S.C. 1052(c) (2d sentence). | July 9, 1952, ch. 608, § 413(c) (2d sentence), 66 Stat. 500. |

Subsection (a) states the general rule that a retired officer, when recalled to active duty, shall be recalled in the grade he holds on the retired list. The rule is derived, not from a specific provision of law, but from the fact that special legislative authority is required to recall a retired officer in any other grade.

The desirability of including a positive statement of the rule is pointed up by the legislative history of the Act of February 21, 1946, ch. 34, § 8(a), 60 Stat. 28, amending the Act of July 24, 1941, ch. 320, § 10(d), 55 Stat. 605 (34 U.S.C. 350i(d)). The 1946 amendment states the rule, but only as to a limited class of retired personnel, namely persons temporarily appointed or promoted under the 1941 Act while on the retired list. The amendment provided that such persons, when released to inactive duty, should be given the highest grade in which they had served satisfactorily and, if subsequently recalled to active duty, should be recalled in the grade so accorded them. The legislative history shows that the bill (S. 1405, 79th Cong., 1st sess.), originally was written so as to provide that retired personnel should be recalled in their prior permanent grades or ratings instead of in the higher grades accorded them on the retired list while on inactive duty. When a member of the Naval Affairs Committee of the House of Representatives suggested an amendment to allow retired personnel to be recalled in the higher grades, the Navy spokesman pointed out that no law was required to permit this; in fact, retired personnel would be *required* to be recalled in the grades they hold on the retired list in the absence of any law to the contrary. Thus the result desired by the committee member could be achieved, simply by deleting the provision instead of amending it. After some discussion, however, it was decided to adopt the suggested amendment in order not to ''leave things to inference'' (H. Rept. No. 158, December 6, 1945, pp. 2290–2292).

Section 412(a) of the Officer Personnel Act of 1947 (34 U.S.C. 410n) (codified, except for the first proviso, in § 6150 of this title), supplies a further reason why a positive statement of the rule is desirable. That section provides that an officer who has been specially commended for the performance of duty in actual combat shall, when retired, be placed on the retired list in the grade next higher than that in which serving at the time of retirement. The first proviso, codified in subsection (b) of this section, provided further that an officer advanced under § 412(a) to a flag or general officer grade could be recalled either in the advanced grade or in the grade from which advanced. The law was silent as to the grade in which other officers advanced under § 412(a) should be recalled. It was understood that they would be recalled in the advanced grade accorded them on the retired list, because there was no authority to recall them in any other grade. However, the Comptroller General raised a question as to their right to the pay of the higher grade when recalled. Although the final decision of the Comptroller General was in favor of the higher pay (30 Comp. Gen. 242, December 20, 1950), the fact that the question was raised indicates the confusion that results from leaving the rule to inference.

It appears that the rule was never in doubt until after the enactment of the two recent laws cited above, one applying the rule to a limited class, and one stating a discretionary exception without stating the rule itself. These two laws make it more difficult than it was formerly to derive the correct conclusion by inference alone.

AMENDMENTS

1980—Pub. L. 96–513 struck out provisions formerly set out as subsec. (a) which authorized each retired member of the naval service, when called to active duty, to be recalled in the grade held by him on the retired list and deleted subsec. (b) designation from remaining provisions.

1968—Subsec. (b). Pub. L. 90–623 inserted ''former'' before ''section 6150''.

1963—Subsec. (c). Pub. L. 88–132 repealed subsec. (c) which provided for recomputation of retired pay of retired members of the naval service, recalled to active duty in the higher grade for officers specially commended and released from such duty, on basis of the then monthly basic pay of the grade held on the retired list after continuous 2-year period of service. See section 1402 of this title.

1958—Subsec. (c). Pub. L. 85–422 added subsec. (c).

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.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–132 effective Oct. 1, 1963, see section 14 of Pub. L. 88–132, set out as a note under

section 201 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–422 effective June 1, 1958, see section 9 of Pub. L. 85–422.

### § 6484. Promotion of retired members to higher enlisted grades: retention of grade upon release from active duty

When on active duty, retired enlisted members of the Navy or the Marine Corps are eligible for promotion to higher enlisted grades or ratings. When released from active duty, they shall, unless entitled to a higher grade under another provision of law, retain the grades or ratings they hold at the time of their release.

(Aug. 10, 1956, ch. 1041, 70A Stat. 417.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6484 ..... | 34 U.S.C. 434. | July 1, 1918, ch. 114, 40 Stat. 719 (1st 9 lines of 2d par.). |

The words ''who has been ordered into active service since April 6, 1917'' are omitted as executed. The words ''to higher enlisted grades or ratings'' are inserted for clarity. The eligibility of retired enlisted men for appointments to warrant and commissioned grades is covered by chapter 539 of this title where the requirements for these appointments are set forth. The words ''unless entitled to a higher grade under another provision of law'' are inserted to make it clear that retired enlisted members are not precluded by this section from obtaining the benefits of other provisions of law that may give a higher grade to them on their release from active duty.

The provision relating to pay, allowances, and benefits is omitted because it was superseded by §§ 514 and 516 of the Career Compensation Act of 1949 (37 U.S.C. 314 and 316).

### § 6485. Members of the Fleet Reserve and Fleet Marine Corps Reserve: authority to recall

(a) A member of the Fleet Reserve or the Fleet Marine Corps Reserve may be ordered by competent authority to active duty without his consent—

(1) in time of war or national emergency declared by Congress, for the duration of the war or national emergency and for six months thereafter;

(2) in time of national emergency declared by the President; or

(3) when otherwise authorized by law.

(b) In time of peace any member of the Fleet Reserve or the Fleet Marine Corps Reserve may be required to perform not more than two months' active duty for training in each four-year period.

(Aug. 10, 1956, ch. 1041, 70A Stat. 417; Pub. L. 95–79, title VIII, § 805, July 30, 1977, 91 Stat. 333.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6485 ..... | 34 U.S.C. 854d (1st 87 words of 2d proviso). | June 25, 1938, ch. 690, § 205 (1st 87 words of 2d proviso), 52 Stat. 1179; July 9, 1952, ch. 608, § 808, 66 Stat. 508. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| | 34 U.S.C. 854e (less 2d through 5th provisos). | June 25, 1938, ch. 690, § 206 (less 2d through 5th provisos), 52 Stat. 1179; Apr. 25, 1940, ch. 153, 54 Stat. 162. |
| | 34 U.S.C. 854 (note). | July 9, 1952, ch. 608, § 803 (3d sentence), 66 Stat. 505. |

In subsection (a) the words ''A member of the Fleet Reserve or the Fleet Marine Corps Reserve'' are substituted for the words ''That men so transferred to the Fleet Reserve * * * or other provision of law'' for clarity. It is clear from the legislative history of the Armed Forces Reserve Act of 1952 that the amendment to the second proviso of 34 U.S.C. 854d made by that Act was intended to cover all members of the Fleet Reserve and Fleet Marine Corps Reserve.

In subsection (b) the word ''enlisted'' is omitted as surplusage since only enlisted members may transfer to the Fleet Reserve and Fleet Marine Corps Reserve. The words ''after 16 years' or more service'' are omitted as surplusage since all the members of the Fleet Reserve and Fleet Marine Corps Reserve are in that category. The words ''If any member fails to report for the physical examination'' are substituted for the words ''upon failure * * * of such member to report for inspection'' to reflect the true meaning of the section. The words ''Under such conditions as may be prescribed by the Secretary of the Navy'' are omitted as unnecessary since the authority to order a forfeiture is entirely within the Secretary's discretion.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95–79 struck out requirements relating to physical examinations for members of the Fleet Reserve and Fleet Marine Corps Reserve.

### § 6486. Members of the Fleet Reserve and Fleet Marine Corps Reserve: release from active duty

(a) Except as provided in subsection (b), the Secretary of the Navy may, at any time, release any member of the Fleet Reserve or the Fleet Marine Corps Reserve from active duty.

(b) In time of war or national emergency declared by Congress or by the President after January 1, 1953, a member of the Fleet Reserve or the Fleet Marine Corps Reserve, without his consent, may be released from active duty other than from active duty for training only if—

(1) a board of officers convened at his request by an authority designated by the Secretary recommends the release and the recommendation is approved;

(2) the member does not request that a board be convened; or

(3) his release is otherwise authorized by law.

This subsection does not apply during a period of demobilization or reduction in strength of the Navy or the Marine Corps.

(Aug. 10, 1956, ch. 1041, 70A Stat. 417.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6486 ..... | 34 U.S.C. 854d (3d proviso). | June 25, 1938, ch. 690, § 205 (3d proviso); added July 9, 1952, ch. 608, § 808, 66 Stat. 508. |
| | 34 U.S.C. 854 (note). | July 9, 1952, ch. 608, § 803 (3d sentence), 66 Stat. 505. |

In subsection (a) the words ''or active duty for training'' are omitted as covered by the term ''active duty'' as used in this revised title.

In subsection (b) the words ''other than from active duty for training'' are inserted since the term ''active duty'' as used in 34 U.S.C. 854d (3d proviso) does not include active duty for training. Clause (3) is inserted, since other provisions of law are necessarily exceptions to the general rule here stated. The words ''or the Marine Corps'' are inserted in the last sentence of subsection (b) to reflect the applicability of the section to the Fleet Marine Corps Reserve.

### [§§ 6487, 6488. Repealed. Pub. L. 96–513, title III, § 362(b), (c), Dec. 12, 1980, 94 Stat. 2903]

Section 6487, act Aug. 10, 1956, ch. 1041, 70A Stat. 418, related to retirement pay of certain rear admirals who retire after serving two years on active duty in time of war or national emergency.

Section 6488, act Aug. 10, 1956, ch. 1041, 70A Stat. 418, related to retention of certain wartime appointments or promotions upon release from active duty. See section 1370 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## CHAPTER 577—DEATH BENEFITS; CARE OF THE DEAD

Sec.
[6521. Repealed.]
6522. Disposition of effects.

AMENDMENTS

1958—Pub. L. 85–861, § 1(145), Sept. 2, 1958, 72 Stat. 1512, struck out item 6521 ''Allowance to dependents: designation of beneficiary''.

### [§ 6521. Repealed. Pub. L. 85–861, § 36B(21), Sept. 2, 1958, 72 Stat. 1571]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 418, related to allowances to dependents, and to designation of beneficiary. See sections 1475 et seq. of this title.

### § 6522. Disposition of effects

(a) If money or other personal property of a deceased member of the naval service is in the custody of the Department of the Navy, the Secretary of the Navy shall keep it in safe custody and make a diligent effort to determine and locate the heirs or next of kin of the deceased member. Property remaining unclaimed two years after the death of the member shall be sold, and the proceeds, together with any of his money held in custody, shall be covered into the Treasury.

(b) Within five years after the date the money and proceeds are covered into the Treasury, any claim that is presented therefor supported by competent proof shall be certified to Congress for consideration.

(c) The Secretary shall prescribe regulations for the administration of this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 419.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6522 ..... | 34 U.S.C. 942. | Mar. 29, 1918, ch. 31, 40 Stat. 499. |

In subsection (a) the word ''shall'' is substituted for the words ''authorized and directed''; the word ''effort'' is substituted for the word ''inquiry''; the words ''determine and locate'' are substituted for the words ''ascertain the whereabouts''; the words ''personal property'' are substituted for the words ''all articles of value, papers, keepsakes, and other similar effects''. The phrase ''to the credit of the Navy pension fund'' is omitted since this fund was abolished by § 9 of the Act of June 26, 1934, ch. 756, 48 Stat. 1229. The application of this section is confined to the money and other personal property of the deceased member in the custody of the Department of the Navy to make it clear that disposition is made only of property held by the Department of the Navy and not of property which may be under other custody, over which the Department of the Navy would have no control.

In subsection (b) the word ''covered'' is substituted for the word ''deposited''.

# PART III—EDUCATION AND TRAINING

| Chap. | | Sec. |
|---|---|---|
| 601. | Officer Procurement Programs ..... | 6901 |
| 602. | Training Generally ..... | 6931 |
| 603. | United States Naval Academy ..... | 6951 |
| 605. | United States Naval Postgraduate School ..... | 7041 |
| 607. | Retirement of Civilian Members of the Teaching Staffs of the United States Naval Academy and United States Naval Postgraduate School ..... | 7081 |
| 609. | Professional Military Education Schools ..... | 7101 |

AMENDMENTS

1998—Pub. L. 105–261, div. A, title V, § 521(b)(2), Oct. 17, 1998, 112 Stat. 2011, added item for chapter 602.

1991—Pub. L. 102–190, div. A, title X, § 1061(a)(27)(B), Dec. 5, 1991, 105 Stat. 1474, substituted ''Education'' for ''Educational'' in item for chapter 609.

1990—Pub. L. 101–510, div. A, title IX, § 912(b), Nov. 5, 1990, 104 Stat. 1627, added item for chapter 609.

## CHAPTER 601—OFFICER PROCUREMENT PROGRAMS

Sec.
[6901 to 6910. Repealed.]
6911. Aviation cadets: grade; procurement; transfer.
6912. Aviation cadets: benefits.
6913. Aviation cadets: appointment as reserve officers.
[6914. Repealed.]
6915. Reserve student aviation pilots; reserve aviation pilots: appointments in commissioned grade.

AMENDMENTS

1980—Pub. L. 96–513, title V, § 503(52), Dec. 12, 1980, 94 Stat. 2915, struck out items 6909 ''Direct procurement: qualifications; retention or transfer to Reserve'' and 6914 ''Reserve naval aviators: appointment in Regular Navy and Regular Marine Corps; eligibility; grade; rank''.

1964—Pub. L. 88–647, title III, § 301(18), Oct. 13, 1964, 78 Stat. 1072, struck out items 6901 ''Naval Reserve Officers' Training Corps: administration'', 6902 ''Transfer of graduates of Naval Reserve Officers' Training Corps to Regular Navy'', 6903 ''Officer candidate training program: administration; qualifications for enrollment'', 6904 ''Officer candidate training program: members enrolled from Naval Reserve Officers' Training Corps; appointment as midshipmen; pay; allowances; commissioning'', 6905 ''Officer candidate training program: members enrolled as naval aviation officer candidates; instruction; pay; allowances'', 6906 ''Officer candidate

training program: naval aviation candidates; appointment as midshipmen; flight training; appointment as ensigns'', 6908 ''Officer candidate training program: naval aviators; retention or transfer to Reserve'', 6910 ''Payment of expenses''.

1961—Pub. L. 87–100, § 1(2), July 21, 1961, 75 Stat. 218, struck out item 6907 ''Officer candidate training program: officers other than naval aviators; retention or transfer to Reserve''.

1958—Pub. L. 85–861, § 1(147)(B), Sept. 2, 1958, 72 Stat. 1513, substituted ''benefits'' for ''pay and allowances'' in item 6912.

### [§§ 6901 to 6906. Repealed. Pub. L. 88–647, title III, § 301(17), Oct. 13, 1964, 78 Stat. 1072]

Section 6901, acts Aug. 10, 1956, ch. 1041, 70A Stat. 420; Sept. 2, 1958, Pub. L. 85–861, § 1(146), 72 Stat. 1512, related to administration of Naval Reserve Officers' Training Corps.

Sections 6902, 6903, act Aug. 10, 1956, ch. 1041, 70A Stat. 420, 421, related to transfer of graduates of Naval Reserve Officers' Training Corps to Regular Navy, administration of officer candidate training program, and to qualifications for enrollment. See sections 2104 and 2106 of this title.

Sections 6904 to 6906, acts Aug. 10, 1956, ch. 1041, 70A Stat. 421, 422, 423; Sept. 7, 1962, Pub. L. 87–649, § 14c(48)–(50), 76 Stat. 501, related to officer candidate training program and qualifications and training of members. See chapters 102 and 103 of this title.

### [§ 6907. Repealed. Pub. L. 87–100, § 1(1), July 21, 1961, 75 Stat. 218]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 424, related to retention or transfer to Reserve of officers other than naval aviators under officer candidate training program.

### [§ 6908. Repealed. Pub. L. 88–647, title III, § 301(17), Oct. 13, 1964, 78 Stat. 1072]

Section, act Aug. 10, 1956, 1041, 70A Stat. 424, related to selection of naval aviators for retention of transfer to the Reserve.

### [§ 6909. Repealed. Pub. L. 96–513, title III, § 329, Dec. 12, 1980, 94 Stat. 2896]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 425, related to direct procurement of ensigns and second lieutenants.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### [§ 6910. Repealed. Pub. L. 88–647, title III, § 301(17), Oct. 13, 1964, 78 Stat. 1072]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 426, authorized payment of expenses of officer procurement program.

### § 6911. Aviation cadets: grade; procurement; transfer

(a) The grade of aviation cadet is a special enlisted grade in the naval service. Under such regulations as the Secretary of the Navy prescribes, citizens in civil life may be enlisted as, and enlisted members of the naval service with their consent may be designated as, aviation cadets.

(b) Except in time of war or emergency declared by Congress, 20 percent of the aviation cadets procured in each fiscal year shall be procured from qualified enlisted members of the Regular Navy and the Regular Marine Corps.

(c) No person may be enlisted or designated as an aviation cadet unless—

(1) he agrees in writing that, upon his successful completion of the course of training as an aviation cadet, he will accept a commission as an ensign in the Navy Reserve or a second lieutenant in the Marine Corps Reserve, and will serve on active duty as such for at least three years, unless sooner released; and

(2) if under 21 years of age, he has the consent of his parent or guardian to his agreement.

(d) Under such regulations as the Secretary prescribes, an aviation cadet may be transferred to another enlisted grade or rating in the naval service, released from active duty, or discharged.

(Aug. 10, 1956, ch. 1041, 70A Stat. 426; Pub. L. 85–578, July 31, 1958, 72 Stat. 456; Pub. L. 96–513, title III, § 373(f), Dec. 12, 1980, 94 Stat. 2903; Pub. L. 109–163, div. A, title V, § 515(b)(1)(N), Jan. 6, 2006, 119 Stat. 3233.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6911(a), (c), (d). | 34 U.S.C. 850a, 850b. | Aug. 4, 1942, ch. 547, §§ 2, 3, 56 Stat.737. |
| 6911(b) ..... | 34 U.S.C. 735b. | June 13, 1949, ch. 199, § 3, 63 Stat. 175. |

In subsection (a) the words ''in civil life'' are added to indicate that regular enlisted members, to be eligible, must be discharged as is required by subsection (b).

In subsection (b) the words before the first proviso are omitted as executed. The words ''after June 13, 1949'' in the first proviso, relating to a declaration of emergency by Congress, are omitted as executed. The emergencies existing on June 13, 1949, have expired, as indicated in the Act of July 3, 1952, ch. 570, 66 Stat. 333. The word ''Regular'' is inserted before ''Navy'' and ''Marine Corps'' to preserve the meaning of this provision which distinguishes members of the reserve components from members of the Navy and the Marine Corps. The words ''who are discharged for the purpose of enlisting as aviation cadets'' are added. Since discharge from a regular component must precede enlistment in a reserve component, the designation language of 34 U.S.C. 735b, although appropriate to the Air Force counterpart to which it also applies, is inappropriate to this section.

Subsection (c) is written as a condition precedent to enlistment or transfer, and not as a requirement, to conform with interpretation of the provision.

AMENDMENTS

2006—Subsec. (c)(1). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

1980—Subsec. (a). Pub. L. 96–513 struck out ''male'' before ''citizens'' and ''enlisted''.

1958—Subsec. (a). Pub. L. 85–578 substituted ''naval service'' for ''Naval Reserve and the Marine Corps Reserve'', made changes in phraseology including the substitution of ''designated'' for ''transferred'', and specified consent as requisite for designation as aviation cadet.

Subsec. (b). Pub. L. 85–578 struck out ''at least'' before ''20 percent'' and ''who, with their consent, are discharged for the purpose of enlisting as aviation cadets'' after ''Regular Marine Corps''.

Subsec. (c). Pub. L. 85–578 designated existing provisions as cls. (1) and (2), made phraseological changes including the substitution of ''designated'' for ''transferred'', and prescribed consent for one under 21 years

of age instead of one described as minor and active duty service with commissioned status for minimum three year period instead of maximum four year period and unspecified grade.

Subsec. (d). Pub. L. 85–578 substituted ''naval service'' for ''Naval Reserve or the Marine Corps Reserve'' and struck out ''as appropriate'' after such term.

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.

## § 6912. Aviation cadets: benefits

Except as provided in section 402(a) and (b) of title 37, aviation cadets or their beneficiaries are entitled to the same allowances, pensions, gratuities, and other benefits as are provided for enlisted members in pay grade E–4. While on active duty, an aviation cadet is entitled to uniforms, clothing, and equipment at the expense of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 426; Pub. L. 85–861, § 1(147)(A), Sept. 2, 1958, 72 Stat. 1513; Pub. L. 87–649, § 6(f)(6), Sept. 7, 1962, 76 Stat. 494.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6912(a), (b). | 34 U.S.C. 850c. | Aug. 4, 1942, ch. 547, § 4, 56 Stat. 737; Oct. 12, 1949, ch. 681, § 527, 63 Stat. 837; May 19, 1952, ch. 310, § 1(e) (as applicable to § 527), 66 Stat. 80. |
| 6912(c) ..... | 34 U.S.C. 850e. | Aug. 4, 1942, ch. 547, § 6, 56 Stat. 738. |

In subsection (b) the words ''and at the same rates'' are omitted as covered by the words ''on the same basis''.

In subsection (c) the words ''enlisted members in pay grade E–4'' are substituted for ''enlisted men of the fourth pay grade'' to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.). The words ''by law or regulation'' are omitted as surplusage. The words ''and the premiums on their life insurance'' are omitted as impliedly repealed by § 10 of the Insurance Act of 1951, 65 Stat. 37, which provided that such premium payments shall not be made by the Government.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6912 ..... | [No source]. | [No source]. |

Section 6912 is amended by eliminating subsections (a) (less clause (4)) and (b) and by substituting a reference to section 301 of the Career Compensation Act of 1949 for the reference to subsection (a) in former subsection (c). The substance of former subsections (a) (less clause (4)) and (b) is covered by the Career Compensation Act, as amended by the Act of March 31, 1955 (69 Stat. 19) and section 10 of this Act.

AMENDMENTS

1962—Pub. L. 87–649 substituted ''section 402(a) and (b) of title 37'' for ''section 251(a) of title 37''.

1958—Pub. L. 85–861 substituted ''benefits'' for ''pay and allowances'' in section catchline, and struck out provisions which prescribed the rate of pay of cadets, which authorized them to receive the same allowances for subsistence as prescribed for officers, which related to the furnishing of quarters, medical care and hospitalization, and which authorized transportation and expenses while traveling under orders.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## § 6913. Aviation cadets: appointment as reserve officers

(a) An aviation cadet who fulfills the requirements of section 2003 of this title may be appointed an ensign in the Navy Reserve or a second lieutenant in the Marine Corps Reserve and designated a naval aviator.

(b) Aviation cadets who complete their training at approximately the same time are considered for all purposes to have begun their commissioned service on the same date, and the decision of the Secretary of the Navy in this regard is conclusive.

(Aug. 10, 1956, ch. 1041, 70A Stat. 427; Pub. L. 96–513, title V, § 513(20), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 109–163, div. A, title V, § 515(b)(1)(O), Jan. 6, 2006, 119 Stat. 3233.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6913(a) ..... | 34 U.S.C. 850f. | Aug. 4, 1942, ch. 547, § 7, 56 Stat. 738. |
| 6913(b) ..... | 34 U.S.C. 850g. | Aug. 4, 1942, ch. 547, § 8, 56 Stat. 738. |

In subsection (a) the proviso is omitted as unnecessary. Section 1 of the Act of April 28, 1950, ch. 120, 64 Stat. 90, terminated service credit for lump-sum payments granted under § 12 of the Act of August 4, 1942, ch. 547, 56 Stat. 738, and thereby removed the only consequences of the proviso. The words ''section 6023(b) of this title'' are substituted for the words ''law for designation or appointment as naval aviators'' to provide specific reference to those requirements. The words ''and designated a naval aviator'' are added for clarity and to authorize specifically the designation, which is implied in 34 U.S.C. 850f.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

1980—Subsec. (a). Pub. L. 96–513 substituted ''section 2003'' for ''section 6023(b)''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

## [§ 6914. Repealed. Pub. L. 96–513, title III, § 374, Dec. 12, 1980, 94 Stat. 2904]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 427, authorized President to appoint Naval Reserve aviators to Regular Navy and Regular Marine Corps.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, see section 701 of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

### § 6915. Reserve student aviation pilots; reserve aviation pilots: appointments in commissioned grade

(a) Under such regulations as the Secretary of the Navy prescribes, enlisted members of the Navy Reserve and the Marine Corps Reserve may be designated as student aviation pilots.

(b) A member who is not a qualified civilian aviator may not be designated as a student aviation pilot unless he agrees in writing, with the consent of his parent or guardian if he is a minor, to serve on active duty for a period of two years after successfully completing flight training, unless sooner released. Such a student aviation pilot may be released from active duty or discharged at any time by any administrative authority prescribed by the Secretary.

(c) If he is a qualified civilian aviator, a student aviation pilot may be given a brief refresher course in flight training.

(d) While he is in flight training, a student aviation pilot shall have uniforms and equipment issued to him at Government expense.

(e) Under regulations prescribed by the Secretary, a student aviation pilot of the Navy Reserve or the Marine Corps Reserve may be designated an aviation pilot upon successfully completing flight training.

(f) In time of peace, an aviation pilot who is obligated under subsection (b) to serve on active duty for a period of two years may serve, with his consent, for an additional period of not more than two years.

(g) An aviation pilot of the Navy Reserve or the Marine Corps Reserve may be released from active duty or discharged at any time by any administrative authority prescribed by the Secretary.

(h) An aviation pilot of the Navy Reserve or the Marine Corps Reserve may, if qualified under regulations prescribed by the Secretary, be appointed an ensign in the Navy Reserve or a second lieutenant in the Marine Corps Reserve, as appropriate.

(Aug. 10, 1956, ch. 1041, 70A Stat. 427; Pub. L. 87–649, § 14c(51), Sept. 7, 1962, 76 Stat. 501; Pub. L. 96–513, title V, § 513(21), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 109–163, div. A, title V, § 515(b)(1)(P), Jan. 6, 2006, 119 Stat. 3233.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6915 ..... | 34 U.S.C. 841a–841e. | Nov. 5, 1941, ch. 468, §§ 1–5, 55 Stat. 759. |
| | 34 U.S.C. 841h. | Nov. 5, 1941, ch. 468, § 8; added Aug. 4, 1942, ch. 547, § 15(h), 56 Stat. 740. |

In subsection (a) the authority to designate student aviation pilots is expressly set forth.

The portion of 34 U.S.C. 841h that provides that student aviation pilots who are qualified civilian aviators shall be given a brief refresher course in flight training is contained in subsection (c). The remainder of 34 U.S.C. 841h, which provides that such pilots shall not be considered as having been designated pursuant to 34 U.S.C. 841a–841h, is reflected in subsection (b) by making that subsection applicable only to student aviation pilots who are not qualified civilian aviators. No other consequences attach to designation as student aviation pilots under the particular provisions. In subsection (b) the word ''continuous'' is omitted as covered by the word ''period'', and the subsection is written as a condition precedent to designation, because it is so interpreted.

In subsection (c) the words ''enlisted in or transferred to pilot ratings'' are omitted as surplusage.

Subsection (e) states expressly the authority to designate aviation pilots, which is implied in 34 U.S.C. 841a, 841b, and 841d.

In subsection (f) the words ''pay grade E–5'' are substituted for the words ''third grade'' in 34 U.S.C. 841b to conform to the terminology of the Career Compensation Act of 1949 (37 U.S.C. 231 et seq.).

In subsection (h) the words ''of the Naval Reserve or the Marine Corps Reserve'' are substituted for the words ''designated as such in accordance with sections 841a and 841b of this title'' for uniformity.

AMENDMENTS

2006—Subsecs. (a), (e), (g), (h). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve'' wherever appearing.

1980—Subsecs. (f) to (i). Pub. L. 96–513 redesignated subsecs. (g), (h), and (i) as (f), (g), and (h), respectively.

1962—Subsec. (f). Pub. L. 87–649 repealed subsec. (f) which provided that while on active duty, an aviation pilot of the Naval Reserve or the Marine Corps Reserve is entitled to the pay of an enlisted member in pay grade E–5 or that of his grade, whichever is greater. See section 201 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

## CHAPTER 602—TRAINING GENERALLY

Sec.
6931. Recruit basic training: separate housing for male and female recruits.
6932. Recruit basic training: privacy.

AMENDMENTS

1998—Pub. L. 105–261, div. A, title V, § 522(b)(2), Oct. 17, 1998, 112 Stat. 2013, added item 6932.

### § 6931. Recruit basic training: separate housing for male and female recruits

(a) PHYSICALLY SEPARATE HOUSING.—(1) The Secretary of the Navy shall provide for housing male recruits and female recruits separately and securely from each other during basic training.

(2) To meet the requirements of paragraph (1), the sleeping areas and latrine areas provided for male recruits shall be physically separated from the sleeping areas and latrine areas provided for female recruits by permanent walls, and the areas for male recruits and the areas for female recruits shall have separate entrances.

(3) The Secretary shall ensure that, when a recruit is in an area referred to in paragraph (2), the area is supervised by one or more persons who are authorized and trained to supervise the area.

(b) ALTERNATIVE SEPARATE HOUSING.—If male recruits and female recruits cannot be housed as provided under subsection (a) by October 1, 2001, at a particular installation, the Secretary of the Navy shall require (on and after that date) that

male recruits in basic training at such installation be housed in barracks or other troop housing facilities that are only for males and that female recruits in basic training at such installation be housed in barracks or other troop housing facilities that are only for females.

(c) CONSTRUCTION PLANNING.—In planning for the construction of housing to be used for housing recruits during basic training, the Secretary of the Navy shall ensure that the housing is to be constructed in a manner that facilitates the housing of male recruits and female recruits separately and securely from each other.

(d) BASIC TRAINING DEFINED.—In this section, the term ''basic training'' means the initial entry training programs of the Navy and Marine Corps that constitute the basic training of new recruits.

(Added Pub. L. 105–261, div. A, title V, § 521(b)(1), Oct. 17, 1998, 112 Stat. 2010.)

IMPLEMENTATION

Pub. L. 105–261, div. A, title V, § 521(b)(3), Oct. 17, 1998, 112 Stat. 2011, provided that: ''The Secretary of the Navy shall implement section 6931 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.''

### § 6932. Recruit basic training: privacy

The Secretary of the Navy shall require that access by recruit division commanders and other training personnel to a living area in which Navy recruits are housed during basic training shall be limited after the end of the training day, other than in the case of an emergency or other exigent circumstance, to recruit division commanders and other training personnel who are of the same sex as the recruits housed in that living area or to superiors in the chain of command of those recruits who, if not of the same sex as the recruits housed in that living area, are accompanied by a member (other than a recruit) who is of the same sex as the recruits housed in that living area.

(Added Pub. L. 105–261, div. A, title V, § 522(b)(1), Oct. 17, 1998, 112 Stat. 2012.)

IMPLEMENTATION

Pub. L. 105–261, div. A, title V, § 522(b)(3), Oct. 17, 1998, 112 Stat. 2013, provided that: ''The Secretary of the Navy shall implement section 6932 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.''

## CHAPTER 603—UNITED STATES NAVAL ACADEMY

Sec.
6951. Location.
6951a. Superintendent.
6952. Civilian teachers: number; compensation.
6953. Midshipmen: appointment.
6954. Midshipmen: number.
6955. Midshipmen: allotment upon redistricting of Congressional Districts.
6956. Midshipmen: nomination and selection to fill vacancies.
6957. Selection of persons from foreign countries.
6957a. Exchange program with foreign military academies.
6958. Midshipmen: qualifications for admission.
6959. Midshipmen: agreement for length of service.
6960. Midshipmen: clothing and equipment; uniform allowance.
6961. Midshipmen: dismissal for best interests of the service.
6962. Midshipmen: discharge for unsatisfactory conduct or inaptitude.
6963. Midshipmen: discharge for deficiency.
6964. Hazing: definition; prohibition.
6965. Failure to report violation; dismissal.[1]
6966. Course of study.
6967. Degree on graduation.
6968. Board of Visitors.
6969. Band: composition.
6970. Permanent professors: retirement for years of service; authority for deferral.
6971. Midshipmen's store, trade shops, dairy, and laundry: nonappropriated fund instrumentality and accounts.
6972. Chapel: crypt and window spaces.
6973. Gifts, bequests, and loans of property: acceptance for benefit and use of Naval Academy.
6974. United States Naval Academy Museum Fund: references to Fund.
6975. Acceptance of guarantees with gifts for major projects.
6976. Operation of Naval Academy dairy farm.
6977. Grants for faculty research for scientific, literary, and educational purposes: acceptance; authorized grantees.
6978. Mixed-funded athletic and recreational extracurricular programs: authority to manage appropriated funds in same manner as nonappropriated funds.
6979. Midshipmen: charges and fees for attendance; limitation.

AMENDMENTS

2006—Pub. L. 109–163, div. A, title V, § 509(b)(2), Jan. 6, 2006, 119 Stat. 3230, added item 6970.

2004—Pub. L. 108–375, div. A, title V, § 545(b)(2), Oct. 28, 2004, 118 Stat. 1908, added item 6979.

Pub. L. 108–375, div. A, title V, § 544(b)(2), Oct. 28, 2004, 118 Stat. 1907, which directed addition of item 6978 at end of table of sections at beginning of ''such title'', was executed by adding item 6978 at end of table of sections for this chapter, to reflect the probable intent of Congress.

2000—Pub. L. 106–398, § 1 [[div. A], title IX, § 942(e)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–242, added items 6973 and 6974 and struck out former items 6973 ''Gifts and bequests: acceptance for benefit of Naval Academy'' and 6974 ''Gifts and bequests: acceptance for benefit of museum''.

1999—Pub. L. 106–65, div. A, title V, § 532(a)(4)(D), div. B, title XXVIII, § 2871(b)(2), Oct. 5, 1999, 113 Stat. 604, 875, added items 6951a and 6975.

1998—Pub. L. 105–261, div. A, title X, § 1063(b)(2), Oct. 17, 1998, 112 Stat. 2131, added item 6977.

1997—Pub. L. 105–85, div. A, title V, § 542(b)(2), div. B, title XXVIII, § 2871(a)(2), Nov. 18, 1997, 111 Stat. 1742, 2015, added items 6957a and 6976.

1996—Pub. L. 104–201, div. A, title III, § 370(d), Sept. 23, 1996, 110 Stat. 2499, struck out item 6970 ''Storekeeper: detail; returns; inspection of accounts'' and substituted ''trade shops, dairy, and laundry: nonappropriated fund instrumentality and accounts'' for ''laundry, barber shop, cobbler shop, tailor shop, and dairy: disposition of funds'' in item 6971.

1994—Pub. L. 103–337, div. A, title V, § 556(b)(2), Oct. 5, 1994, 108 Stat. 2775, which amended analysis by adding item 6975 ''Athletics program: athletic director; non-

[1] So in original. Does not conform to section catchline.

appropriated fund account'', was repealed by Pub. L. 104–106, div. A, title V, § 533(b), Feb. 10, 1996, 110 Stat. 315, as amended by Pub. L. 105–85, div. A, title X, § 1073(d)(1)(C), Nov. 18, 1997, 111 Stat. 1905.

1983—Pub. L. 98–94, title X, § 1004(b)(2), Sept. 24, 1983, 97 Stat. 659, substituted ''Selection of persons from foreign countries'' for ''Admission of foreigners for instruction: restrictions, conditions'' in item 6957.

### § 6951. Location

The United States Naval Academy shall be located at Annapolis, Maryland.

(Aug. 10, 1956, ch. 1041, 70A Stat. 428.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6951 ..... | 34 U.S.C. 1021. | R.S. 1511. |

The words ''United States'' are inserted before the words ''Naval Academy'' to state the full title. The word ''established'' is omitted as executed. The words ''in the State of'' are omitted as surplusage.

### § 6951a. Superintendent

(a) There is a Superintendent of the United States Naval Academy. The immediate governance of the Naval Academy is under the Superintendent.

(b) The Superintendent shall be detailed to that position by the President. As a condition for detail to that position, an officer shall acknowledge that upon termination of that detail the officer shall be retired pursuant to section 6371(a) of this title, unless such retirement is waived under section 6371(b) of this title.

(c) An officer who is detailed to the position of Superintendent shall be so detailed for a period of not less than three years. In any case in which an officer serving as Superintendent is reassigned or retires before having completed three years service as Superintendent, or otherwise leaves that position (other than due to death) without having completed three years service in that position, the Secretary of the Navy shall submit to Congress notice that such officer left the position of Superintendent without having completed three years service in that position, together with a statement of the reasons why that officer did not complete three years service in that position.

(Added Pub. L. 106–65, div. A, title V, § 532(a)(2)(B), Oct. 5, 1999, 113 Stat. 603; amended Pub. L. 108–375, div. A, title V, § 541(b)(2), Oct. 28, 2004, 118 Stat. 1903.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–375, § 541(b)(2)(A), inserted before period at end ''pursuant to section 6371(a) of this title, unless such retirement is waived under section 6371(b) of this title''.

Subsec. (c). Pub. L. 108–375, § 541(b)(2)(B), added subsec. (c).

APPLICATION OF SECTION TO SUPERINTENDENTS SERVING ON OCTOBER 5, 1999

Section not applicable to an officer serving on Oct. 5, 1999, in the position of Superintendent of the United States Military Academy, Naval Academy, or Air Force Academy for so long as that officer continues on and after that date to serve in that position without a break in service, see section 532(a)(5) of Pub. L. 106–65, set out as a note under section 3921 of this title.

### § 6952. Civilian teachers: number; compensation

(a) The Secretary of the Navy may employ as many civilians as professors, instructors, and lecturers at the Naval Academy as he considers necessary.

(b) The compensation of persons employed under this section is as prescribed by the Secretary.

(c) The Secretary of the Navy may, notwithstanding the provisions of subchapter V of chapter 55 of title 5 or section 6101 of such title, prescribe for persons employed under this section the following:

(1) The work schedule, including hours of work and tours of duty, set forth with such specificity and other characteristics as the Secretary determines appropriate.

(2) Any premium pay or compensatory time off for hours of work or tours of duty in excess of the regularly scheduled hours or tours of duty.

(d) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 428; Pub. L. 106–65, div. A, title XI, § 1107(b), Oct. 5, 1999, 113 Stat. 778.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6952 ..... | 34 U.S.C. 1071 (as applicable to Naval Academy). | Aug. 2, 1946, ch. 756, § 7(a) (as applicable to Naval Academy), 60 Stat. 854. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, § 39, 60 Stat. 858. |

The words ''for the proper instruction of naval personnel'' and the words ''be paid out of naval appropriations'' are omitted as surplusage.

In subsection (c) the words ''except the authority to prescribe regulations'' are omitted, since 34 U.S.C. 1071 contains no authority for the Secretary of the Navy to prescribe regulations for the administration of that section.

AMENDMENTS

1999—Subsecs. (c), (d). Pub. L. 106–65 added subsec. (c) and redesignated former subsec. (c) as (d).

### § 6953. Midshipmen: appointment

Midshipmen at the Naval Academy shall be appointed by the President alone. An appointment is conditional until the midshipman is admitted.

(Aug. 10, 1956, ch. 1041, 70A Stat. 429; Pub. L. 97–60, title II, § 203(b)(1), Oct. 14, 1981, 95 Stat. 1006.)

HISTORICAL AND REVISION NOTES

This section is included in this chapter without specific reference to statutory source to resolve the ambiguities and conflicts existing in the statutes relating to the appointment of midshipmen at the Naval Academy. The word ''appoint'' has been used in various statutes when the intent of Congress was to provide authority in the persons named to ''choose,'' ''select,'' or ''nominate'' for the office of midshipman. These statutes have been collected and codified in § 6954 of this title, which reflects the various sources of nominees for ''appoint-

ment'' as midshipmen and the persons who may so ''nominate'' them. The actual appointing power resides in the President and this implied authority is herein expressed for clarity and for the purpose of uniformity of expression.

AMENDMENTS

1981—Pub. L. 97–60 inserted provision that an appointment is conditional until the midshipman is admitted.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–60 effective with respect to nominations for appointment to the first class admitted to each Academy after Oct. 14, 1981, see section 203(d) of Pub. L. 97–60, set out as an Effective Date note under section 4341a of this title.

**§ 6954. Midshipmen: number**

(a) The authorized strength of the Brigade of Midshipmen (determined for any year as of the day before the last day of the academic year) is 4,000 or such higher number as may be prescribed by the Secretary of the Navy under subsection (h). Subject to that limitation, midshipmen are selected as follows:

(1) 65 selected in order of merit as established by competitive examination from the children of members of the armed forces who were killed in action or died of, or have a service-connected disability at not less than 100 per centum resulting from, wounds or injuries received or diseases contracted in, or preexisting injury or disease aggravated by, active service, children of members who are in a ''missing status'' as defined in section 551(2) of title 37, and children of civilian employees who are in ''missing status'' as defined in section 5561(5) of title 5. The determination of the Department of Veterans Affairs as to service connection of the cause of death or disability is rated, is binding upon the Secretary of the Navy.

(2) Five nominated at large by the Vice President or, if there is no Vice President, by the President pro tempore of the Senate.

(3) Ten from each State, five of whom are nominated by each Senator from that State.

(4) Five nominated by each Representative in Congress.

(5) Five from the District of Columbia, nominated by the Delegate to the House of Representatives from the District of Columbia.

(6) Three from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands.

(7) Six from Puerto Rico, five of whom are nominated by the Resident Commissioner from Puerto Rico and one who is a native of Puerto Rico nominated by the Governor of Puerto Rico.

(8) Three from Guam, nominated by the Delegate in Congress from Guam.

(9) Two from American Samoa, nominated by the Delegate in Congress from American Samoa.

(10) One from the Commonwealth of the Northern Mariana Islands, nominated by the resident representative from the commonwealth.

Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate 10 persons for each vacancy that is available under this section. Nominees may be submitted without ranking or with a principal candidate and 9 ranked or unranked alternates. Qualified nominees not selected for appointment under this subsection shall be considered qualified alternates for the purposes of selection under other provisions of this chapter.

(b) In addition there may be appointed each year at the Academy midshipmen as follows:

(1) one hundred selected by the President from the children of members of an armed force who—

(A) are on active duty (other than for training) and who have served continuously on active duty for at least eight years;

(B) are, or who died while they were, retired with pay or granted retired or retainer pay;

(C) are serving as members of reserve components and are credited with at least eight years of service computed under section 12733 of this title; or

(D) would be, or who died while they would have been, entitled to retired pay under chapter 1223 of this title except for not having attained 60 years of age;

however, a person who is eligible for selection under clause (1) of subsection (a) may not be selected under this clause.

(2) 85 nominated by the Secretary of the Navy from enlisted members of the Regular Navy and the Regular Marine Corps.

(3) 85 nominated by the Secretary of the Navy from enlisted members of the Navy Reserve and the Marine Corps Reserve.

(4) 20 nominated by the Secretary of the Navy, under regulations prescribed by him, from the honor graduates of schools designated as honor schools by the Department of the Army, the Department of the Navy, or the Department of the Air Force, and from members of the Naval Reserve Officer's Training corps.

(5) 150 selected by the Secretary of the Navy in order of merit (prescribed pursuant to section 6956 of this title) from qualified alternates nominated by persons named in clauses (3) and (4) of subsection (a).

(c) The President may also appoint as midshipmen at the Academy children of persons who have been awarded the medal of honor for acts performed while in the armed forces.

(d) The Superintendent of the Naval Academy may nominate for appointment each year 50 persons from the country at large. Persons nominated under this paragraph may not displace any appointment authorized under clauses (2) through (9) of subsection (a) and may not cause the total strength of midshipmen at the Naval Academy to exceed the authorized number.

(e) The Secretary of the Navy may limit the number of midshipmen appointed under subsection (b)(5). When he does so, if the total number of midshipmen, upon admission of a new class at the Academy, will be more than 3,737, no appointments may be made under subsection (b)(2) or (3) of this section or section 6956 of this title.

(f) The Superintendent of the Naval Academy shall furnish to any Member of Congress, upon

the written request of such Member, the name of the Congressman or other nominating authority responsible for the nomination of any named or identified person for appointment to the Academy.

(g) For purposes of the limitation in subsection (a) establishing the aggregate authorized strength of the Brigade of Midshipmen, the Secretary of the Navy may for any year permit a variance in that limitation by not more than one percent. In applying that limitation, and any such variance, the last day of an academic year shall be considered to be graduation day.

(h)(1) Beginning with the 2003–2004 academic year, the Secretary of the Navy may prescribe annual increases in the midshipmen strength limit in effect under subsection (a). For any academic year, any such increase shall be by no more than 100 midshipmen or such lesser number as applies under paragraph (3) for that year. Such annual increases may be prescribed until the midshipmen strength limit is 4,400. However, no increase may be prescribed for any academic year after the 2007–2008 academic year.

(2) Any increase in the midshipmen strength limit under paragraph (1) with respect to an academic year shall be prescribed not later than the date on which the budget of the President is submitted to Congress under section 1105 of title 31 for the fiscal year beginning in the same year as the year in which that academic year begins. Whenever the Secretary prescribes such an increase, the Secretary shall submit to Congress a notice in writing of the increase. The notice shall state the amount of the increase in the midshipmen strength limit and the new midshipmen strength limit, as so increased, and the amount of the increase in Senior Navy Reserve Officers' Training Corps enrollment under each of sections 2104 and 2107 of this title.

(3) The amount of an increase under paragraph (1) in the midshipmen strength limit for an academic year may not exceed the increase (if any) for the preceding academic year in the total number of midshipmen enrolled in the Navy Senior Reserve Officers' Training Corps program under chapter 103 of this title who have entered into an agreement under section 2104 or 2107 of this title.

(4) In this subsection, the term ''midshipmen strength limit'' means the authorized maximum strength of the Brigade of Midshipmen.

(Aug. 10, 1956, ch. 1041, 70A Stat. 429; Pub. L. 87–651, title I, § 124, Sept. 7, 1962, 76 Stat. 514; Pub. L. 87–663, § 1(3), Sept. 14, 1962, 76 Stat. 547; Pub. L. 88–276, § 2, Mar. 3, 1964, 78 Stat. 150; Pub. L. 89–650, § 1(1)–(3), Oct. 13, 1966, 80 Stat. 896; Pub. L. 90–374, July 5, 1968, 82 Stat. 283; Pub. L. 90–623, § 2(8), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 91–405, title II, § 204(c), Sept. 22, 1970, 84 Stat. 852; Pub. L. 92–365, § 1(2), Aug. 7, 1972, 86 Stat. 505; Pub. L. 93–171, § 2(1)–(3), Nov. 29, 1973, 87 Stat. 690; Pub. L. 94–106, title VIII, § 803(b)(1), Oct. 7, 1975, 89 Stat. 538; Pub. L. 96–600, § 2(b), Dec. 24, 1980, 94 Stat. 3493; Pub. L. 97–60, title II, § 203(b)(2), Oct. 14, 1981, 95 Stat. 1006; Pub. L. 97–295, § 1(44), Oct. 12, 1982, 96 Stat. 1298; Pub. L. 98–94, title X, § 1005(a)(2), (b)(2), Sept. 24, 1983, 97 Stat. 660; Pub. L. 101–189, div. A, title XVI, § 1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 101–510, div. A, title V, § 532(b)(1), Nov. 5, 1990, 104 Stat. 1563; Pub. L. 103–160, div. A, title V, § 531, Nov. 30, 1993, 107 Stat. 1657; Pub. L. 103–337, div. A, title XVI, § 1673(c), Oct. 5, 1994, 108 Stat. 3016; Pub. L. 104–106, div. A, title V, § 532(b), Feb. 10, 1996, 110 Stat. 314; Pub. L. 105–85, div. A, title X, § 1073(a)(62), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 106–65, div. A, title V, § 531(b)(2), Oct. 5, 1999, 113 Stat. 602; Pub. L. 106–398, § 1 [[div. A], title V, § 531(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–109; Pub. L. 107–107, div. A, title X, § 1048(g)(1), Dec. 28, 2001, 115 Stat. 1228; Pub. L. 107–314, div. A, title V, § 532(b), Dec. 2, 2002, 116 Stat. 2545; Pub. L. 108–136, div. A, title V, § 524(b), title X, § 1031(a)(55), Nov. 24, 2003, 117 Stat. 1464, 1603; Pub. L. 109–163, div. A, title V, § 515(b)(1)(Q), Jan. 6, 2006, 119 Stat. 3233.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6954(a)(1) | 34 U.S.C. 1036a. | June 8, 1926, ch. 492, par. 2, 44 Stat. 703; Dec. 1, 1942, ch. 650, 56 Stat. 1024; Nov. 24, 1945, ch. 493, 59 Stat. 586; June 30, 1950, ch. 421, § 6(c), 64 Stat. 305; June 3, 1954, ch. 251, § 1, 68 Stat. 168. |
| 6954(a)(2) | 34 U.S.C. 1037. | May 28, 1928, ch. 820, 45 Stat. 788. |
| 6954(a)(3)–(7). | 34 U.S.C. 1032 (1st 31 words). | Dec. 20, 1917, ch. 5, § 1 (1st 31 words), 40 Stat. 430; Aug. 13, 1946, ch. 962, § 16, 60 Stat. 1061; May 16, 1947, ch. 77, § 1(*o*), 61 Stat. 100. |
| 6954(a)(7) | 34 U.S.C. 1034. | Mar. 3, 1903, ch. 1010, 32 Stat. 1198 (2d par.). |
| 6954(a)(8) | 34 U.S.C. 1035a. | June 8, 1939, ch. 195, 53 Stat. 814. |
| 6954(b)(1) | 34 U.S.C. 1039. | Aug. 13, 1946, ch. 962, § 16(a), 60 Stat. 1061; May 16, 1947, ch. 77, § 1(*o*), 61 Stat. 100; June 30, 1950, ch. 421, § 5, 64 Stat. 305. |
| 6954(b)(2), (3). | 34 U.S.C. 1032 (32d to 70th words). | Dec. 20, 1917, ch. 5, § 1 (32d to 70th words), 40 Stat. 430; Aug. 13, 1946, ch. 962, § 16, 60 Stat. 1061. |
| 6954(b)(4) | 34 U.S.C. 1033a. | Feb. 27, 1936, ch. 89, 49 Stat. 1144; June 6, 1941, ch. 175, 55 Stat. 246. |
| 6954(c) ..... | 34 U.S.C. 1038. | Nov. 24, 1945, ch. 492, 59 Stat. 586. |

All provisions of law authorizing appointments to the Naval Academy from various sources are collected in this section. The language is extensively changed to meet the needs of this organization of the source material. In those provisions that now authorize ''appointments'' by other than the President, the language is changed to indicate that the process is one of selection where the law requires selection by competitive examination, and to show that other candidates are nominated. The manner of appointing the selectees and nominees, in all cases, is covered in § 6953 of this title. In the case of nominees from States, the District of Columbia, Territories, and from Puerto Rico, the qualification that the nominees must be from the political subdivisions from which nominated is indicated. The requirement that the nominees be actual residents of the political subdivisions is contained in § 6958(b) of this title.

In subsection (a)(1) the words ''armed forces'' are substituted for the description of the land and naval forces. The words ''including male and female members of'' and ''of all components thereof'' are omitted as surplusage.

In subsection (a)(1)(B), the date February 1, 1955, fixed by Proclamation No. 3080 (Jan. 7, 1955; 20 F.R. 173), is substituted for the words ''such date as shall thereafter be determined by Presidential proclamation or

concurrent resolution of the Congress under section 745 of title 38''.

In subsection (b)(1) the qualification that appointees must be from the sons of members of the various ''regular'' components of the armed forces is added, as ''Army, Navy, Air Force, Marine Corps, and Coast Guard'' are so interpreted in this statute.

In subsection (c) the proviso ''That all such appointees are otherwise qualified for admission'' is omitted as covered by § 6958 of this title setting forth qualifications of all candidates.

The applicability to the United States Military Academy in the Act of June 8, 1926, ch. 492, as amended (34 U.S.C. 1036a; 10 U.S.C. 1091a), was repealed by section 6(c) of the Act of June 30, 1950, ch. 421, 64 Stat. 305.

1962 ACT

The change reflects the change of the name of the Panama Railroad Company to the Panama Canal Company by section 2(a)(2) of the Act of September 26, 1950 (64 Stat. 1038).

1982 ACT

In 10:6954(f), the word ''The'' is substituted for ''Effective beginning with the nominations for appointment to the Academy in the calendar year 1964, the'' to eliminate executed words.

AMENDMENTS

2006—Subsec. (b)(3). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

2003—Subsec. (a)(6), (8). Pub. L. 108–136, § 524(b)(1), substituted ''Three'' for ''Two''.

Subsec. (a)(9). Pub. L. 108–136, § 524(b)(2), substituted ''Two'' for ''One''.

Subsec. (f). Pub. L. 108–136, § 1031(a)(55), substituted ''Superintendent of the Naval Academy'' for ''Secretary of the Navy''.

2002—Subsec. (a). Pub. L. 107–314, § 532(b)(1), inserted before period at end of first sentence ''or such higher number as may be prescribed by the Secretary of the Navy under subsection (h)''.

Subsec. (h). Pub. L. 107–314, § 532(b)(2), added subsec. (h).

2001—Subsec. (a). Pub. L. 107–107 amended directory language of Pub. L. 106–65, § 531(b)(2)(A). See 1999 Amendment note below.

2000—Subsec. (b)(1)(B). Pub. L. 106–398, § 1 [[div. A], title V, § 531(b)(1)], struck out '', other than those granted retired pay under section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)'' after ''retired or retainer pay''.

Subsec. (b)(1)(C), (D). Pub. L. 106–398, § 1 [[div. A], title V, § 531(b)(2)], added subpars. (C) and (D).

1999—Subsec. (a). Pub. L. 106–65, § 531(b)(2)(A), as amended by Pub. L. 107–107, § 1048(g)(1), substituted ''(a) The authorized strength of the Brigade of Midshipmen (determined for any year as of the day before the last day of the academic year) is 4,000. Subject to that limitation, midshipmen are selected as follows:'' for ''(a) There may be at the Naval Academy at any one time midshipmen as follows:'' in introductory provisions.

Subsec. (g). Pub. L. 106–65, § 531(b)(2)(B), added subsec. (g).

1997—Subsec. (a)(10). Pub. L. 105–85 substituted ''Mariana'' for ''Marianas''.

1996—Subsec. (a)(10). Pub. L. 104–106 added par. (10).

1994—Subsec. (b)(1)(B). Pub. L. 103–337 substituted ''section 12731 of this title (or under section 1331 of this title as in effect before the effective date of the Reserve Officer Personnel Management Act)'' for ''section 1331 of this title''.

1993—Subsec. (a). Pub. L. 103–160, in concluding provisions, substituted ''10 persons'' for ''a principal candidate and nine alternates'' and inserted at end ''Nominees may be submitted without ranking or with a principal candidate and 9 ranked or unranked alternates. Qualified nominees not selected for appointment under this subsection shall be considered qualified alternates for the purposes of selection under other provisions of this chapter.''

1990—Subsec. (a)(8) to (10). Pub. L. 101–510, § 532(b)(1)(A), redesignated cls. (9) and (10) as (8) and (9), respectively, and struck out former cl. (8) which read as follows: ''One nominated by the Administrator of the Panama Canal Commission from the children of civilian personnel of the United States residing in the Republic of Panama who are citizens of the United States.''

Subsec. (d). Pub. L. 101–510, § 532(b)(1)(B), substituted ''clauses (2) through (9)'' for ''clauses (2)–(7), (9), or (10)''.

1989—Subsec. (a)(1). Pub. L. 101–189 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1983—Subsec. (a)(8). Pub. L. 98–94, § 1005(b)(2), substituted ''One nominated by the Administrator of the Panama Canal Commission from the children of civilian personnel of the United States residing in the Republic of Panama who are citizens of the United States'' for ''One nominated by the Governor of the Panama Canal from the children of civilians residing in the Canal Zone or the children of civilian personnel of the United States Government, or the Panama Canal Company, residing in the Republic of Panama''.

Subsec. (a)(10). Pub. L. 98–94, § 1005(a)(2), substituted ''One from American Samoa, nominated by the Delegate in Congress from American Samoa'' for ''One from American Samoa nominated by the Secretary of the Navy upon recommendation of the Governor of American Samoa''.

1982—Subsec. (f). Pub. L. 97–295 substituted ''The'' for ''Effective beginning with the nominations for appointment to the Academy in the calendar year 1964, the''.

1981—Subsecs. (d) to (f). Pub. L. 97–60 added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1980—Subsec. (a)(6), (9). Pub. L. 96–600 substituted ''Two'' for ''One''.

1975—Subsecs. (a)(1), (8), (b)(1), (c). Pub. L. 94–106 substituted ''children'' for ''sons'' wherever appearing.

1973—Subsec. (a)(6). Pub. L. 93–171, § 2(1), substituted ''One from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands'' for ''Five from each Territory, nominated by the Delegate in Congress from that Territory''.

Subsec. (a)(9). Pub. L. 93–171, § 2(2), struck out reference to American Samoa and Virgin Islands.

Subsec. (a)(10). Pub. L. 93–171, § 2(3), added cl. (10).

1972—Subsec. (a)(1). Pub. L. 92–365 increased the number of midshipmen from 40 to 65 and added sons of members who are in missing status and sons of civilian employees who are in missing status as eligible for competitive examination.

1970—Subsec. (a)(5). Pub. L. 91–405 substituted ''Delegate to the House of Representatives from the District of Columbia'' for ''Commissioner of that District''.

1968—Subsec. (a). Pub. L. 90–374 increased from five to nine the number of alternates for each vacancy each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate.

Subsec. (a)(5). Pub. L. 90–623 substituted ''Commissioner'' for ''Commissioners''.

1966—Subsec. (a)(1). Pub. L. 89–650, § 1(1), provided for selection of cadets to the Naval Academy from sons of members of the armed forces who have a 100 per centum service-connected disability and removed the limitation to active service during World War I or World War II or after June 26, 1950, and before Feb. 1, 1955.

Subsec. (a)(2). Pub. L. 89–650, § 1(2), provided for nominations to the Naval Academy by the President pro tempore of the Senate if there is no Vice President.

Subsec. (b)(1). Pub. L. 89–650, § 1(3), increased the number of Presidential appointments to the Naval Academy from 75 to 100, provided for selection of eligible persons as stated in items (A) and (B), previously chosen from sons of members of regular components,

and declared persons eligible under subsec. (a)(1) ineligible under subsec. (b)(1) of this section.

1964—Subsec. (a). Pub. L. 88–276, § 2(1), inserted ''Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate a principal candidate and five alternates for each vacancy that is available to him under this section''.

Subsec. (b)(2), (3), (5). Pub. L. 88–276, § 2(2), reduced the number of nominees in cls. (2) and (3) from 160 to 85 and added cl. (5).

Subsecs. (d), (e). Pub. L. 88–276, § 2(3), added subsecs. (d) and (e).

1962—Subsec. (a). Pub. L. 87–663 added cl. (9).

Pub. L. 87–651 substituted ''Panama Canal Company'' for ''Panama Railroad Company'' in cl. (8).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 524(b) of Pub. L. 108–136 applicable with respect to nomination of candidates for appointment to United States Naval Academy for classes entering after Nov. 24, 2003, see section 524(d) of Pub. L. 108–136, set out as a note under section 4342 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title X, § 1048(g), Dec. 28, 2001, 115 Stat. 1228, provided that the amendment made by section 1048(g)(1) is effective as of Oct. 5, 1999, and as if included in Pub. L. 106–65 as enacted.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–60 effective with respect to nominations for appointment to the first class admitted to each Academy after Oct. 14, 1981, see section 203(d) of Pub. L. 97–60, set out as an Effective Date note under section 4341a of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–600 effective beginning with nominations for appointment to the service academies for academic years beginning more than one year after Dec. 24, 1980, see section 2(d) of Pub. L. 96–600 set out as a note under section 4342 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–171 effective beginning with the nominations for appointment to the service academies in the calendar year 1974, see section 4 of Pub. L. 93–171, set out as a note under section 4342 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–405 effective Sept. 22, 1970, see section 206(b) of Pub. L. 91–405, set out as an Effective Date note under section 25a of Title 2, The Congress.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

LIMITATION ON NUMBER OF CADETS AND MIDSHIPMEN AUTHORIZED TO ATTEND SERVICE ACADEMIES

Authorized strength of service academies not to exceed 4,000 per academy for class years beginning after 1994, and any reduction in number of appointments not to be achieved by reduction in number of appointments under subsec. (a) of this section, see section 511 of Pub. L. 102–190, set out as a note under section 4342 of this title.

ELIGIBILITY OF FEMALE INDIVIDUALS FOR APPOINTMENT AND ADMISSION TO SERVICE ACADEMIES; UNIFORM APPLICATION OF ACADEMIC AND OTHER STANDARDS TO MALE AND FEMALE INDIVIDUALS

Secretary to take such action as may be necessary and appropriate to insure that (1) female individuals shall be eligible for appointment and admission to the United States Naval Academy, beginning with appointments to such academy for the class beginning in calendar year 1976, and (2) the academic and other relevant standards required for appointment, admission, training, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals, see section 803(a) of Pub. L. 94–106, set out as a note under section 4342 of this title.

SECRETARY TO IMPLEMENT POLICY OF EXPEDITIOUS ADMISSION OF WOMEN TO THE ACADEMY

Secretary to continue to exercise the authority granted under this chapter and chapters 403 and 903 of this title, but such authority to be exercised within a program providing for the orderly and expeditious admission of women to the Academy, consistent with the needs of the services, see section 803(c) of Pub. L. 94–106, set out as a note under section 4342 of this title.

## § 6955. Midshipmen: allotment upon redistricting of Congressional Districts

If as a result of redistricting a State the domicile of a midshipman, or a nominee, nominated by a Representative falls within a congressional district other than that from which he was nominated, he is charged to the district in which his domicile so falls. For this purpose, the number of midshipmen otherwise authorized for that district is increased to include him. However, the number as so increased is reduced by one if he fails to become a midshipman or when he is finally separated from the Naval Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 430.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6955 ..... | 34 U.S.C. 1032–1. | July 7, 1943, ch. 193, 57 Stat. 383. |

The word ''domicile'' is substituted for the words ''place of residence'' to conform to the long-standing interpretation of this section (see also opinions of the Judge Advocate General of the Army R. 29, 83; J.A.G. 351.11, Feb. 10, 1925). The words ''a congressional district other than that from which he was nominated'' are substituted for the word ''another''. The words ''were appointed with respect to'', ''of the former district'', ''as additional numbers'', ''at such academy for the Representative'', ''temporarily'', and ''in attendance at either academy under an appointment from such former district'' are omitted as surplusage. The words ''the district in which his domicile so falls'' are substituted for the words ''of the latter district''. The words ''to include him'' are substituted for 34 U.S.C. 1032–1 (18 words before proviso). The words ''However, the number as so increased'' are substituted for 34 U.S.C. 1032–1 (1st 13 words of proviso). The words ''if he fails to become a midshipman'' are inserted for clarity.

## § 6956. Midshipmen: nomination and selection to fill vacancies

(a) If the annual quota of midshipmen from—

(1) enlisted members of the Regular Navy and the Regular Marine Corps;

(2) enlisted members of the Navy Reserve and the Marine Corps Reserve; or

(3) at large by the President;

is not filled, the Secretary may fill the vacancies by nominating for appointment other candidates from any of these sources who were found best qualified on examination for admission and not otherwise nominated.

(b) If it is determined that, upon the admission of a new class to the Academy, the number of midshipmen at the Academy will be below the authorized number, the Secretary may fill the vacancies by nominating additional midshipmen from qualified candidates designated as alternates and from other qualified candidates who competed for nomination and are recommended and found qualified by the Academic Board. At least three-fourths of those nominated under this subsection shall be from qualified alternates under clauses (2) through (8) of section 6954(a) of this title, and the remainder shall be from qualified candidates who competed for appointment under any other provision of law. An appointment of a nominee under this subsection is an additional appointment and is not in place of an appointment otherwise authorized by law.

(c) The failure of a member of a graduating class to complete the course with his class does not delay the appointment of his successor.

(Aug. 10, 1956, ch. 1041, 70A Stat. 430; Pub. L. 88–276, § 3, Mar. 3, 1964, 78 Stat. 151; Pub. L. 90–374, July 5, 1968, 82 Stat. 283; Pub. L. 93–171, § 2(4), Nov. 29, 1973, 87 Stat. 690; Pub. L. 94–106, title VIII, § 803(b)(2), Oct. 7, 1975, 89 Stat. 538; Pub. L. 97–60, title II, § 206, Oct. 14, 1981, 95 Stat. 1007; Pub. L. 101–510, div. A, title V, § 532(b)(2), title XIII, § 1322(a)(14), Nov. 5, 1990, 104 Stat. 1563, 1671; Pub. L. 109–163, div. A, title V, § 515(b)(1)(R), Jan. 6, 2006, 119 Stat. 3233.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6956(a), (b), (c). | 34 U.S.C. 1041. | June 29, 1906, ch. 3590, 34 Stat. 578 (last par.). |
| 6956(d) ..... | 34 U.S.C. 1040. | Aug. 13, 1946, ch. 962, § 14, 60 Stat. 1061. |
| 6956(e) ..... | 34 U.S.C. 1049. | June 30, 1950, ch. 421, § 4, 64 Stat. 305. |
| 6956(f) ..... | 34 U.S.C. 1047 (1st proviso). | June 30, 1950, ch. 421, § 2 (1st proviso), 64 Stat. 304. |

The section is worded to indicate that all appointments are made by the President, and that, before appointment, prospective midshipmen are ''nominees'' or ''candidates'', as appropriate.

In subsection (b) the provision authorizing the Secretary of the Navy to nominate candidates in the event nominations to fill vacancies under subsection (a) are not made by March fourth is omitted as covered by subsection (e), the purpose of which was to assure the entrance of a full class each year.

Reference in subsection (e) to the strength of the ''brigade of midshipmen'' is dropped, since there is no statutory requirement that the midshipmen at the Academy be so organized, and the term is a recognition of current organization only. The language authorizing the Secretary, in his discretion, to nominate additional midshipmen to meet the needs of the armed services but not to exceed the authorized strength of the Academy is changed to authorize the Secretary to ''fill the vacancies by nominating additional midshipmen''. In exercising his discretion under this subsection, these factors are necessarily considered by the Secretary, irrespective of a specific provision so instructing him.

In subsection (f) the word ''admission'' is changed to the word ''appointment'', since the admission of a person is a consequence of, and follows automatically from, his appointment. The statement of reasons for failure to complete the course is omitted as unnecessary.

AMENDMENTS

2006—Subsec. (a)(2). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

1990—Subsec. (a). Pub. L. 101–510, § 1322(a)(14), redesignated subsec. (b) as (a) and struck out former subsec. (a) which read as follows: ''The Secretary of the Navy shall, as soon as possible after the first of June of each year, notify in writing each Senator, Representative, and delegate in Congress of any vacancy that will exist at the Naval Academy because of graduation in the following year, or that may occur for other reasons, for which the member or delegate is entitled to nominate a candidate and nine alternates.''

Subsec. (b). Pub. L. 101–510, § 1322(a)(14)(B), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 101–510, § 1322(a)(14)(B), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Pub. L. 101–510, § 532(b)(2), substituted ''clauses (2) through (8)'' for ''clauses (2)–(9)''.

Subsec. (d). Pub. L. 101–510, § 1322(a)(14)(B), redesignated subsec. (d) as (c).

1981—Subsecs. (b) to (d). Pub. L. 97–60 redesignated subsecs. (d), (e), and (f) as (b), (c), and (d), respectively. Former subsec. (b) providing that a nomination following notification under subsection (a) be made by the fourth of March of the year following that in which notice of the vacancy was given and that, if the candidate died or declined the nomination, or if the nomination could not be made by reason of a vacancy in the membership of the Senate or the House of Representatives, the nomination could be made, as determined by the Secretary, not later than the date of the final entrance examination for that year, and former subsec. (c) providing that the nomination of candidates to fill vacancies for the District of Columbia, and selection of all candidates at large, be made by the fourth of March of the year in which the candidates were to enter the Academy, were struck out.

1975—Subsec. (d). Pub. L. 94–106 substituted ''enlisted members'' for ''enlisted men'' in pars. (1) and (2).

1973—Subsec. (e). Pub. L. 93–171 substituted reference to clauses (2)–(9) of section 6954(a) for reference to clauses (2)–(8) of section 6954(a).

1968—Subsec. (a). Pub. L. 90–374 substituted ''nine alternates'' for ''five alternates''.

1964—Subsec. (a). Pub. L. 88–276, § 3(1), substituted ''five alternates'' for ''one or more alternates''.

Subsec. (e). Pub. L. 88–276, § 3(2), substituted ''three-fourths of those nominated'' for ''two-thirds of those nominated''.

EFFECTIVE DATE OF 1973 AMENDMENT

For effective date of amendment by Pub. L. 93–171, see section 4 of Pub. L. 93–171, set out as a note under section 4342 of this title.

NUMBER OF ALTERNATE-APPOINTEES FROM CONGRESSIONAL SOURCES NOT TO BE REDUCED BECAUSE OF ADDITIONAL PRESIDENTIAL APPOINTMENTS

Nonreduction of number of appointees from congressional sources under this section because of additional presidential appointments under section 6954(b)(1) of this title, see note set out under section 4343 of this title.

## § 6957. Selection of persons from foreign countries

(a)(1) The Secretary of the Navy may permit not more than 60 persons at any one time from

foreign countries to receive instruction at the Academy. Such persons shall be in addition to the authorized strength of the midshipmen under section 6954 of this title.

(2) The Secretary of the Navy, upon approval by the Secretary of Defense, shall determine the countries from which persons may be selected for appointment under this section and the number of persons that may be selected from each country. The Secretary of the Navy may establish entrance qualifications and methods of competition for selection among individual applicants under this section and shall select those persons who will be permitted to receive instruction at the Academy under this section.

(3) In selecting persons to receive instruction under this section from among applicants from the countries approved under paragraph (2), the Secretary of the Navy shall give a priority to persons who have a national service obligation to their countries upon graduation from the Academy.

(b)(1) A person receiving instruction under this section is entitled to the pay, allowances, and emoluments of a midshipman appointed from the United States, and from the same appropriations.

(2) Each foreign country from which a midshipman is permitted to receive instruction at the Academy under this section shall reimburse the United States for the cost of providing such instruction, including the cost of pay, allowances, and emoluments provided under paragraph (1). The Secretary of the Navy shall prescribe the rates for reimbursement under this paragraph, except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a midshipman appointed from the United States.

(3) The Secretary of Defense may waive, in whole or in part, the requirement for reimbursement of the cost of instruction for a midshipman under paragraph (2). In the case of a partial waiver, the Secretary shall establish the amount waived.

(c)(1) Except as the Secretary of the Navy determines, a person receiving instruction under this section is subject to the same regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as a midshipman at the Academy appointed from the United States. The Secretary may prescribe regulations with respect to access to classified information by a person receiving instruction under this section that differ from the regulations that apply to a midshipman at the Academy appointed from the United States.

(2) A person receiving instruction under this section is not entitled to an appointment in an armed force of the United States by reason of graduation from the Academy.

(d) A person receiving instruction under this section is not subject to section 6958(d) of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 431; Pub. L. 98–94, title X, § 1004(b)(1), Sept. 24, 1983, 97 Stat. 658; Pub. L. 105–85, div. A, title V, §§ 541(b), 543(b), Nov. 18, 1997, 111 Stat. 1740, 1743; Pub. L. 106–65, div. A, title V, § 534(b), Oct. 5, 1999, 113 Stat. 605; Pub. L. 106–398, § 1 [[div. A], title V, § 532(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–110; Pub. L. 107–107, div. A, title V, § 533(b)(1), (2), Dec. 28, 2001, 115 Stat. 1106.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6957(a) ..... | 34 U.S.C. 1036. | June 29, 1906, ch. 3590, 34 Stat. 577 (1st par.). |
| 6957(b), (c), (d). | 34 U.S.C. 1036–1. | July 14, 1941, ch. 292, 55 Stat. 589; June 1, 1948, ch. 357, § 1, 62 Stat. 279. |
| | 34 U.S.C. 1036–2. | June 24, 1948, ch. 616, 62 Stat. 583. |

In subsections (a) and (b) the location of the Academy is omitted as surplusage.

In subsection (b) the words ''from the Republic of the Philippines'' are substituted for the word ''Filipinos'' to indicate the proper designation of that country.

In subsection (c) reference to ''emoluments'' is omitted, as that term has no present significance with reference to midshipmen.

In subsection (d) the words ''rules and'' and ''any office or position'' are omitted as surplusage and the provision is extended to cover specifically the Marine Corps, since ''Navy'' in this context is so interpreted.

AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107–107, § 533(b)(1), substituted ''60'' for ''40''.

Subsec. (b)(2). Pub. L. 107–107, § 533(b)(2)(A), struck out ''unless a written waiver of reimbursement is granted by the Secretary of Defense'' before period at end of first sentence.

Subsec. (b)(3). Pub. L. 107–107, § 533(b)(2)(B), added par. (3) and struck out former par. (3) which read as follows: ''The amount of reimbursement waived under paragraph (2) may not exceed 50 percent of the per-person reimbursement amount otherwise required to be paid by a foreign country under such paragraph, except in the case of not more than 20 persons receiving instruction at the Naval Academy under this section at any one time.''

2000—Subsec. (a)(3). Pub. L. 106–398 added par. (3).

1999—Subsec. (b)(3). Pub. L. 106–65 substituted ''50 percent'' for ''35 percent'' and ''20 persons'' for ''five persons''.

1997—Subsec. (b)(2). Pub. L. 105–85, § 543(b)(1), substituted '', except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a midshipman appointed from the United States.'' for period at end.

Subsec. (b)(3). Pub. L. 105–85, § 543(b)(2), added par. (3).

Subsec. (d). Pub. L. 105–85, § 541(b), added subsec. (d).

1983—Pub. L. 98–94 substituted ''Selection of persons from foreign countries'' for ''Admission of foreigners for instruction: restrictions; conditions'' in section catchline.

Subsec. (a). Pub. L. 98–94 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''No person from a foreign country may be permitted to receive instruction at the Naval Academy except as authorized by this section.''

Subsec. (b). Pub. L. 98–94 amended subsec. (b) generally, redesignating former subsec. (c) as par. (1) and in par. (1), as so redesignated, substituted ''pay, allowances, and emoluments of a midshipman appointed from the United States, and from the same appropriations'' for ''same pay and allowances, to be paid from the same appropriations, as midshipmen'', and added par. (2). Former subsec. (b), relating to the authority of the Secretary of the Navy to limit the numbers of foreigners studying at the Academy, was struck out.

Subsec. (c). Pub. L. 98–94 amended subsec. (c) generally, designating first sentence of former subsec. (d) as par. (1) and in par. (1), as so designated, substituted ''as a midshipman at the Academy appointed from the United States'' for ''as a midshipman'', and inserted

sentence authorizing the Secretary to prescribe regulations with respect to access to classified information by a person receiving instruction under this section that differ from the regulations that apply to a midshipman at the Academy appointed from the United States; and designating the second sentence of former subsec. (d) as par. (2) and in par. (2), as so designated, substituted ''A person'' for ''However, a person'' and ''an armed force of the United States'' for ''the Navy or the Marine Corps''. Former subsec. (c) was redesignated (b)(1).

Subsec. (d). Pub. L. 98–94, as part of the general amendment of this section, omitted subsec. (d) and incorporated its provisions into subsec. (c).

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title V, § 533(b)(3), Dec. 28, 2001, 115 Stat. 1106, provided that: ''The amendments made by paragraph (2) [amending this section] shall not apply with respect to any person who entered the United States Naval Academy to receive instruction under section 6957 of title 10, United States Code, before the date of the enactment of this Act [Dec. 28, 2001].''

Amendment by Pub. L. 107–107 inapplicable with respect to any academic year that began before Dec. 28, 2001, see section 533(d) of Pub. L. 107–107, set out as a note under section 4344 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–398 applicable with respect to academic years that begin after Oct. 1, 2000, see section 1 [[div. A], title V, § 532(d)] of Pub. L. 106–398, set out as a note under section 4344 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–65 applicable with respect to students from a foreign country entering the United States Military Academy, Naval Academy, or Air Force Academy on or after May 1, 1999, see section 534(d) of Pub. L. 106–65, set out as a note under section 4344 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 543(b) of Pub. L. 105–85 applicable with respect to students from foreign country entering United States Military Academy, United States Naval Academy, or United States Air Force Academy on or after May 1, 1998, see section 543(d) of Pub. L. 105–85, set out as a note under section 4344 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–94 effective one year after Sept. 24, 1983, and applicable to persons entering the Academy after such date, with subsec. (b)(2) of this section, as amended, not to apply to the cost of providing instruction to a person who, before such date, entered the Academy, see section 1004(d) of Pub. L. 98–94, set out as a note under section 4344 of this title.

PERSONS FROM COUNTRIES ASSISTING U.S. IN VIETNAM: NAVAL ACADEMY INSTRUCTION; BENEFITS, LIMITATIONS, RESTRICTIONS, AND REGULATIONS; OATH OF TRAINEES

Naval Academy instruction of persons from countries assisting U.S. in Vietnam, numerical limitation, prohibition against appointment of graduates to the Armed Forces, exemption from oath, etc., see Pub. L. 89–802, Nov. 9, 1966, 80 Stat. 1518, set out as a note under section 4344 of this title.

## § 6957a. Exchange program with foreign military academies

(a) EXCHANGE PROGRAM AUTHORIZED.—The Secretary of the Navy may permit a student enrolled at a military academy of a foreign country to receive instruction at the Naval Academy in exchange for a midshipman receiving instruction at that foreign military academy pursuant to an exchange agreement entered into between the Secretary and appropriate officials of the foreign country. Students receiving instruction at the Academy under the exchange program shall be in addition to persons receiving instruction at the Academy under section 6957 of this title.

(b) LIMITATIONS ON NUMBER AND DURATION OF EXCHANGES.—An exchange agreement under this section between the Secretary and a foreign country shall provide for the exchange of students on a one-for-one basis each fiscal year. Not more than 24 midshipmen and a comparable number of students from all foreign military academies participating in the exchange program may be exchanged during any fiscal year. The duration of an exchange may not exceed the equivalent of one academic semester at the Naval Academy.

(c) COSTS AND EXPENSES.—(1) A student from a military academy of a foreign country is not entitled to the pay, allowances, and emoluments of a midshipman by reason of attendance at the Naval Academy under the exchange program, and the Department of Defense may not incur any cost of international travel required for transportation of such a student to and from the sponsoring foreign country.

(2) The Secretary may provide a student from a foreign country under the exchange program, during the period of the exchange, with subsistence, transportation within the continental United States, clothing, health care, and other services to the same extent that the foreign country provides comparable support and services to the exchanged midshipman in that foreign country.

(3) The Naval Academy shall bear all costs of the exchange program from funds appropriated for the Academy. Expenditures in support of the exchange program may not exceed $120,000 during any fiscal year.

(d) APPLICATION OF OTHER LAWS.—Subsections (c) and (d) of section 6957 of this title shall apply with respect to a student enrolled at a military academy of a foreign country while attending the Naval Academy under the exchange program.

(e) REGULATIONS.—The Secretary shall prescribe regulations to implement this section. Such regulations may include qualification criteria and methods of selection for students of foreign military academies to participate in the exchange program.

(Added Pub. L. 105–85, div. A, title V, § 542(b)(1), Nov. 18, 1997, 111 Stat. 1741; amended Pub. L. 106–65, div. A, title V, § 535(b), Oct. 5, 1999, 113 Stat. 605.)

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–65, § 535(b)(1), substituted ''24 midshipmen'' for ''10 midshipmen''.

Subsec. (c)(3). Pub. L. 106–65, § 535(b)(2), substituted ''$120,000'' for ''$50,000''.

## § 6958. Midshipmen: qualifications for admission

(a) Each candidate for admission to the Naval Academy—

(1) must be at least 17 years of age and must not have passed his twenty-third birthday on

July 1 of the calendar year in which he enters the Academy; and

(2) shall be examined according to such regulations as the Secretary of the Navy prescribes, and if rejected at one examination may not be examined again for admission to the same class unless recommended by the Academic Board.

(b) Each candidate for admission nominated under clauses (3) through (9) of section 6954(a) of this title must be domiciled in the State, or in the congressional district, from which he is nominated, or in the District of Columbia, Puerto Rico, American Samoa, Guam, or the Virgin Islands, if nominated from one of those places.

(c) Each candidate nominated under clause (2) or (3) of section 6954(b) of this title—

(1) must be a citizen of the United States;

(2) must have passed the required physical examination; and

(3) shall be appointed in the order of merit from candidates who have, in competition with each other, passed the required mental examination.

(d) To be admitted to the Naval Academy, an appointee must take and subscribe to an oath prescribed by the Secretary of the Navy. If a candidate for admission refuses to take and subscribe to the prescribed oath, the candidate's appointment is terminated.

(Aug. 10, 1956, ch. 1041, 70A Stat. 431; Pub. L. 87–663, § 1(4), Sept. 14, 1962, 76 Stat. 547; Pub. L. 93–171, § 2(5), Nov. 29, 1973, 87 Stat. 690; Pub. L. 101–510, div. A, title V, § 532(b)(3), Nov. 5, 1990, 104 Stat. 1563; Pub. L. 102–190, div. A, title V, § 512, Dec. 5, 1991, 105 Stat. 1360; Pub. L. 104–201, div. A, title V, § 555(c), Sept. 23, 1996, 110 Stat. 2527; Pub. L. 105–85, div. A, title V, § 541(a), Nov. 18, 1997, 111 Stat. 1740.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6958(a)(1) | 34 U.S.C. 1047 (less 1st proviso). | June 30, 1950, ch. 421, § 2 (less 1st proviso), 64 Stat. 304. |
| 6958(a)(2) | 34 U.S.C. 1043. | R.S. 1515. |
| 6958(b) ..... | 34 U.S.C. 1047 (2d proviso). | June 30, 1950, ch. 421, § 2 (2d proviso), 64 Stat. 304. |
| 6958(c) ..... | 34 U.S.C. 1042. | Mar. 4, 1917, ch. 180, 39 Stat. 1182 (1st par.). |
| | 34 U.S.C. 1032 (less 1st 70 words). | Dec. 20, 1917, ch. 5, § 1 (less 1st 70 words), 40 Stat. 430; Aug. 13, 1946, ch. 962, § 16, 60 Stat. 1061; May 16, 1947, ch. 77, § 1(*o*), 61 Stat. 100. |

In subsection (a) the effective date is omitted as executed. The words ''at least 17 years of age and must not have passed his twenty-second birthday'' are substituted for the words ''not less than seventeen years of age and not more than twenty-two years of age'' to remove ambiguity, and for uniformity of treatment of provisions of this type. The reference to time of examination is omitted as being included within the Secretary's authority to prescribe regulations, which is stated in the subsection. The words ''Academic Board'' are substituted for the words ''board of examiners''.

In subsection (b) the words ''domiciled in'' are substituted for the words ''actual resident of'' since this term has been so interpreted.

AMENDMENTS

1997—Subsec. (d). Pub. L. 105–85 added subsec. (d).

1996—Subsec. (a)(1). Pub. L. 104–201 substituted ''twenty-third birthday'' for ''twenty-second birthday''.

1991—Subsec. (c)(2) to (4). Pub. L. 102–190 redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which required candidates to have served at least one year as enlisted members on date of entrance.

1990—Subsec. (b). Pub. L. 101–510 substituted ''clauses (3) through (9)'' for ''clauses (3)–(7), (9) and (10)''.

1973—Subsec. (b). Pub. L. 93–171 substituted '', (9) and (10) of section 6954(a)'' for ''and (9) of section 6954(a)'' and struck out ''or Territory''.

1962—Subsec. (b). Pub. L. 87–663 inserted references to American Samoa, Guam, and the Virgin Islands, and substituted ''clauses (3)–(7) and (9)'' for ''clauses (3)–(7)''.

EFFECTIVE DATE OF 1973 AMENDMENT

For effective date of amendment by Pub. L. 93–171, see section 4 of Pub. L. 93–171, set out as a note under section 4342 of this title.

AUTHORITY TO WAIVE MAXIMUM AGE LIMITATION ON ADMISSION TO SERVICE ACADEMIES FOR CERTAIN ENLISTED MEMBERS WHO SERVED DURING PERSIAN GULF WAR

For authority to waive maximum age limitation in subsec. (a)(1) of this section on basis of service on active duty in connection with Operation Desert Storm, see section 514 of Pub. L. 102–190, set out as a note under section 4346 of this title.

## § 6959. Midshipmen: agreement for length of service

(a) Each midshipman shall sign an agreement with respect to the midshipman's length of service in the armed forces. The agreement shall provide that the midshipman agrees to the following:

(1) That the midshipman will complete the course of instruction at the Naval Academy.

(2) That upon graduation from the Naval Academy the midshipman—

(A) will accept an appointment, if tendered, as a commissioned officer of the Regular Navy, the Regular Marine Corps, or the Regular Air Force; and

(B) will serve on active duty for at least five years immediately after such appointment.

(3) That if an appointment described in paragraph (2) is not tendered or if the midshipman is permitted to resign as a regular officer before completion of the commissioned service obligation of the midshipman, the midshipman—

(A) will accept an appointment as a commissioned officer in the Navy Reserve or the Marine Corps Reserve or as a Reserve in the Air Force for service in the Air Force Reserve; and

(B) will remain in that reserve component until completion of the commissioned service obligation of the midshipman.

(b)(1) The Secretary of the Navy may transfer to the Navy Reserve or the Marine Corps Reserve, and may order to active duty for such period of time as the Secretary prescribes (but not to exceed four years), a midshipman who breaches an agreement under subsection (a). The period of time for which a midshipman is ordered to active duty under this paragraph may be determined without regard to section 651(a) of this title.

(2) A midshipman who is transferred to the Navy Reserve or Marine Corps Reserve under paragraph (1) shall be transferred in an appropriate enlisted grade or rating, as determined by the Secretary.

(3) For the purposes of paragraph (1), a midshipman shall be considered to have breached an agreement under subsection (a) if the midshipman is separated from the Naval Academy under circumstances which the Secretary determines constitute a breach by the midshipman of the midshipman's agreement to complete the course of instruction at the Naval Academy and accept an appointment as a commissioned officer upon graduation from the Naval Academy.

(c) The Secretary of the Navy shall prescribe regulations to carry out this section. Those regulations shall include—

(1) standards for determining what constitutes, for the purpose of subsection (b), a breach of an agreement under subsection (a);

(2) procedures for determining whether such a breach has occurred; and

(3) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection (b).

(d) In this section, ''commissioned service obligation'', with respect to an officer who is a graduate of the Academy, means the period beginning on the date of the officer's appointment as a commissioned officer and ending on the sixth anniversary of such appointment or, at the discretion of the Secretary of Defense, any later date up to the eighth anniversary of such appointment.

(e)(1) This section does not apply to a midshipman who is not a citizen or national of the United States.

(2) In the case of a midshipman who is a minor and who has parents or a guardian, the midshipman may sign the agreement required by subsection (a) only with the consent of a parent or guardian.

(f) A midshipman or former midshipman who does not fulfill the terms of the agreement as specified under section[1] (a), or the alternative obligation imposed under subsection (b), shall be subject to the repayment provisions of section 303a(e) of title 37.

(Aug. 10, 1956, ch. 1041, 70A Stat. 432; Pub. L. 88–276, § 5(a), Mar. 3, 1964, 78 Stat. 153; Pub. L. 88–647, title III, § 301(19), Oct. 13, 1964, 78 Stat. 1072; Pub. L. 98–525, title V, §§ 541(b), 542(c), Oct. 19, 1984, 98 Stat. 2529; Pub. L. 99–145, title V, § 512(b), Nov. 8, 1985, 99 Stat. 624; Pub. L. 101–189, div. A, title V, § 511(c), Nov. 29, 1989, 103 Stat. 1439; Pub. L. 104–106, div. A, title V, § 531(b), Feb. 10, 1996, 110 Stat. 314; Pub. L. 109–163, div. A, title V, § 515(b)(1)(S), title VI, § 687(c)(10), Jan. 6, 2006, 119 Stat. 3233, 3335.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6959 ..... | 34 U.S.C. 1048. | June 30, 1950, ch. 421, § 3, 64 Stat. 304. |

The words ''Hereafter'' and ''appointed to the United States Naval Academy'' are omitted as surplusage. The words ''an agreement that * * * he will'' are substituted for the words ''articles * * * by which he shall engage''. The word ''separated'' is substituted for the words ''discharged by competent authority''. The words ''if tendered an appointment'', ''upon graduation from the United States Naval Academy'', and ''consecutive'' are omitted as surplusage. The words ''if he is permitted to resign'' are substituted for the words ''in the event of the acceptance of his resignation'', since a resignation is effective only if accepted. The first 43 words of clause (3) are substituted for 34 U.S.C. 1048 (last 30 words of clause (3)). The last sentence is substituted for the words ''with the consent of his parents or guardian if he be a minor, and if any he have.''

AMENDMENTS

2006—Subsecs. (a)(3)(A), (b)(1), (2). Pub. L. 109–163, § 515(b)(1)(S), substituted ''Navy Reserve'' for ''Naval Reserve''.

Subsec. (f). Pub. L. 109–163, § 687(c)(10), added subsec. (f).

1996—Subsec. (a)(2)(B). Pub. L. 104–106 substituted ''five years'' for ''six years''.

1989—Subsec. (a)(2)(B). Pub. L. 101–189 substituted ''six years'' for ''five years''.

1985—Pub. L. 99–145 amended section generally. Prior to amendment, section read as follows:

''(a) Each midshipman who is a citizen or national of the United States shall sign an agreement that he will—

''(1) unless sooner separated from the Naval Academy, complete the course of instruction at the Naval Academy;

''(2) accept an appointment and, unless sooner separated from the naval service, serve as a commissioned officer of the Regular Navy, the Regular Marine Corps, or the Regular Air Force for at least five years immediately after graduation; and

''(3) accept an appointment as a commissioned officer in the reserve component of the Navy or the Marine Corps or as a Reserve in the Air Force for service in the Air Force Reserve and, unless sooner separated from the naval service, remain therein until at least the sixth anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary of his graduation if an appointment in the regular component of that armed force is not tendered to him or if he is permitted to resign as a commissioned officer of that component before that anniversary.

If the midshipman is a minor and has parents or a guardian, he may sign the agreement only with the consent of the parents or guardian.

''(b) A midshipman who does not fulfill his agreement under subsection (a) may be transferred by the Secretary of the Navy to the Naval Reserve or the Marine Corps Reserve in an appropriate enlisted grade or rating, and, notwithstanding section 651 of this title, may be ordered to active duty to serve in that grade or rating for such period of time as the Secretary prescribes but not for more than four years.''

1984—Subsec. (a). Pub. L. 98–525, § 541(b), struck out '', unless sooner separated,'' in introductory text preceding ''he will''; inserted in cl. (1) ''unless sooner separated from the Naval Academy,''; and inserted '', unless sooner separated from the naval service,'' in cls. (2) and (3).

Subsec. (a)(3). Pub. L. 98–525, § 542(c), substituted ''at least the sixth anniversary and, at the direction of the Secretary of Defense, up to the eighth anniversary'' for ''the sixth anniversary''.

1964—Pub. L. 88–647 designated existing provisions as subsec. (a) and added subsec. (b).

Subsec. (a)(2). Pub. L. 88–276 substituted ''five'' for ''three''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 applicable to persons first admitted to United States Military Academy, United States Naval Academy, and United States Air

[1] So in original. Probably should be ''subsection''.

Force Academy after Dec. 31, 1991, see section 531(e) of Pub. L. 104–106, set out as a note under section 4348 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–189 applicable to persons who are first admitted to one of the military service academies after Dec. 31, 1991, see section 511(e) of Pub. L. 101–189, as amended, set out as a note under section 2114 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–145 (other than with respect to the authority of the Secretary of the Navy to prescribe regulations) effective on the date on which regulations prescribed by the Secretary take effect and applicable to agreements entered into under this section on or after the effective date of such regulations and also with respect to each such agreement that was entered into before the effective date of such regulations by an individual who is a midshipman on such date, see section 512(e) of Pub. L. 99–145, set out as a note under section 4348 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 541(b) of Pub. L. 98–525 applicable with respect to agreements entered into under this section before, on, or after Oct. 19, 1984, see section 541(d) of Pub. L. 98–525, set out as a note under section 4348 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT; OBLIGATED PERIOD OF SERVICE

For effective date of amendment by Pub. L. 88–276, see section 5(c) of Pub. L. 88–276, set out as a note under section 4348 of this title.

REGULATIONS IMPLEMENTING 1985 AMENDMENT

Secretary of the Navy to prescribe regulations required by subsec. (c) of this section as added by Pub. L. 99–145 not later than the end of the 90-day period beginning on Nov. 8, 1985, see section 512(d) of Pub. L. 99–145, set out as a note under section 4348 of this title.

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of this title.

## § 6960. Midshipmen: clothing and equipment; uniform allowance

The Secretary of the Navy may prescribe the amount to be credited to a midshipman, upon original admission to the Naval Academy, for the cost of his initial issue of clothing and equipment. That amount shall be deducted from his pay. If a midshipman is discharged before graduation while owing the United States for pay advanced for the purchase of required clothing and equipment, he shall turn in as much of his clothing and equipment of a distinctively military nature as is necessary to repay the amount advanced. If the value of the clothing and equipment turned in does not cover the amount owed, the indebtedness shall be canceled.

(Aug. 10, 1956, ch. 1041, 70A Stat. 432.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6960 ..... | 34 U.S.C. 1052a. | Aug. 22, 1951, ch. 340, § 1, 65 Stat. 196. |

The word ''new'' before ''midshipmen'' and the word ''subsequently'' after ''deducted'' are omitted as surplusage. The words ''while owing the United States for pay advanced for the purchase of'' are substituted for the words ''who is indebted to the United States on account of advances of pay to purchase''.

## § 6961. Midshipmen: dismissal for best interests of the service

(a) Whenever the Superintendent of the Naval Academy believes that the continued presence of any midshipman at the Academy is contrary to the best interest of the service, he shall report in writing to the Secretary of the Navy a full statement of the facts upon which his belief is based. If the Secretary determines from the report that the Superintendent's belief is well founded, the Secretary shall serve a copy of the report on the midshipman. Within such time as the Secretary considers reasonable, the midshipman shall show cause in writing why he should not be dismissed from the Academy. The Secretary, after consideration of any cause so shown, and with the written approval of the President, may dismiss the midshipman from the Academy and from the naval service.

(b) The truth of any issue of fact raised under subsection (a), except as to the record of demerits, shall be determined by a court of inquiry convened by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 432.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6961 ..... | 34 U.S.C. 1062. | Apr. 9, 1906, ch. 1370, § 1, 34 Stat. 104. |

The words ''court of inquiry'' are substituted for the words ''board of inquiry'' to conform to the terminology of the Uniform Code of Military Justice. The words ''under the rules and regulations for the government of the Navy'' are omitted as unnecessary.

DELEGATION OF FUNCTIONS

For delegation to Secretary of Defense of authority vested in President by section 1062 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.

## § 6962. Midshipmen: discharge for unsatisfactory conduct or inaptitude

(a) The Superintendent of the Naval Academy shall submit to the Secretary of the Navy in writing a full report of the facts—

(1) whenever the Superintendent determines that the conduct of a midshipman is unsatisfactory; or

(2) whenever the Academic Board unanimously determines that midshipman possesses insufficient aptitude to become a commissioned officer in the naval service.

(b) A midshipman upon whom a report is made under subsection (a) shall be given an opportunity to examine the report and submit a written statement thereon. If the Secretary believes, on the basis of the report and statement, that the determination of the Superintendent or of the Academic Board is reasonable and well founded, he may discharge the midshipman from the Naval Academy and from the naval service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 432.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6962 ..... | 34 U.S.C. 1062a. | Dec. 11, 1945, ch. 562, 59 Stat. 605. |

## § 6963. Midshipmen: discharge for deficiency

Midshipmen found deficient at any examination shall, unless the Academic Board recommends otherwise, be discharged from the Naval Academy and from the naval service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 433.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6963 ..... | 34 U.S.C. 1053. | R.S. 1519; restored Oct. 22, 1921, ch. 113, § 2, 42 Stat. 207. |

## § 6964. Hazing: definition; prohibition

(a) In this chapter, the term ''hazing'' means any unauthorized assumption of authority by a midshipman whereby another midshipman suffers or is exposed to any cruelty, indignity, humiliation, hardship, or oppression, or the deprivation or abridgement of any right.

(b) The Superintendent of the Naval Academy shall prescribe regulations, to be approved by the Secretary of the Navy, to prevent hazing.

(c) Hazing is an offense that may be dealt with as an offense against good order and discipline or as a violation of the regulations of the Naval Academy. However, no midshipman may be dismissed for a single act of hazing except by sentence of a court-martial.

(d) The finding and sentence of a court-martial of a midshipman for hazing shall be reviewed in the manner prescribed for general court-martial cases.

(e) A midshipman who is sentenced to imprisonment for hazing may not be confined with persons who have been convicted of crimes or misdemeanors.

(f) A midshipman who is dismissed from the Academy for hazing may not be reappointed as a midshipman or be appointed as a commissioned officer in the Army, Navy, Air Force, or Marine Corps until two years after the graduation of the class of which he was a member.

(Aug. 10, 1956, ch. 1041, 70A Stat. 433; Pub. L. 99–145, title XIII, § 1301(c)(2), Nov. 8, 1985, 99 Stat. 736; Pub. L. 101–189, div. A, title XVI, § 1622(e)(8), Nov. 29, 1989, 103 Stat. 1605.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6964(a) ..... | 34 U.S.C. 1064. | Apr. 9, 1906, ch. 1370, § 4, 34 Stat. 105. |
| 6964(b) ..... | 34 U.S.C. 1063. | Mar. 3, 1903, ch. 1010, 32 Stat. 1198 (1st 28 words of 1st proviso). |
| 6964(c) ..... | 34 U.S.C. 1065. | Apr. 9, 1906, ch. 1370, § 2 (last 54 words), 34 Stat. 104. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6964(d), (e). | 34 U.S.C. 1066. | June 23, 1874, ch. 453, 18 Stat. 203; Mar. 3, 1903, ch. 1010, 32 Stat. 1198 (29th to 49th word of 1st proviso); Apr. 9, 1906, ch. 1370, § 3, 34 Stat. 104; May 5, 1950, ch. 169, § 11, 64 Stat. 146. |
| 6964(f) ..... | 34 U.S.C. 1067. | Mar. 3, 1903, ch. 1010, 32 Stat. 1198 (last 43 words of 1st proviso). |

In subsection (a) the words ''privilege, or advantage to which he shall legally be entitled'' are omitted as surplusage, since they are covered by the word ''right''. The definition in this subsection is made applicable throughout the chapter to cover § 6965 of this title, since the reference in that section to hazing was also derived from the act which is the source for this subsection.

In subsection (b) the words ''prescribe regulations * * * to prevent hazing'' are substituted for the words ''make such rules * * * as will effectually prevent the practice of hazing''.

In subsection (c) the words ''dealt with'' are substituted for the words ''proceeded against, dealt with, and punished''. The word ''regulations'' is substituted for the word ''rules'' for uniformity and the words ''and breaches'' are omitted as surplusage. The words ''except by sentence of a court-martial'' are substituted for the words ''except under the provisions of section three of this Act'' because § 3 of the source statute provided for a Naval Academy court-martial with special provisions for handling cases involving hazing. The enactment of the Uniform Code of Military Justice made midshipmen at the Naval Academy subject to the same military law which applies generally to the naval service, thereby superseding the special type of court-martial for midshipmen. A court-martial under the Uniform Code of Military Justice has the power to sentence anyone convicted by it to dismissal if authorized by the Table of Maximum Punishments.

In subsections (d) and (e) all that part of the source text preceding the proviso is omitted as superseded by the Uniform Code of Military Justice. The words ''in a military or naval prison or elsewhere'' are omitted as surplusage.

AMENDMENTS

1989—Subsec. (a). Pub. L. 101–189 inserted '', the term'' after ''In this chapter''.

1985—Subsec. (e). Pub. L. 99–145 substituted ''persons'' for ''men''.

## § 6965. Failure to report violation: dismissal

(a) Each officer stationed at the Naval Academy, each midshipman officer, each midshipman petty officer, and each civilian member of the teaching staff of the Academy shall report promptly to the Superintendent of the Naval Academy any fact that tends to show the commission of hazing or any violation of an Academy regulation by a midshipman.

(b) An officer of the naval service who fails to make a report required by subsection (a) shall be tried by court-martial and if convicted shall be dismissed from the naval service.

(c) A civilian member of the teaching staff of the Academy who fails to make a report required by subsection (a) shall, with the approval of the Secretary of the Navy, be dismissed by the Superintendent.

(Aug. 10, 1956, ch. 1041, 70A Stat. 433.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6965 ..... | 34 U.S.C. 1068. | Apr. 9, 1906, ch. 1370, § 5, 34 Stat. 105. |

In subsection (a) the words ''each officer stationed at the Naval Academy, each midshipman officer, each midshipman petty officer, and each civilian member of the teaching staff of the Academy shall'' are substituted for the words ''it shall be the duty of every professor, assistant professor, academic officer, or any cadet officer or cadet petty officer, or instructor, as well as every other officer stationed at the United States Naval Academy to'' to state the current applicability of the provision. The words ''commission of hazing'' are substituted for the words ''violation * * * of any of the provisions of this Act''.

In subsection (b) the words ''for neglect of duty'' are omitted inasmuch as the Uniform Code of Military Justice sets out the offenses for which persons subject to the Code may be tried.

## § 6966. Course of study

(a) The course at the Naval Academy is four years.

(b) The Secretary of the Navy shall arrange the course so that classes will not be held on Sunday.

(Aug. 10, 1956, ch. 1041, 70A Stat. 434.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6966(a) ..... | 34 U.S.C. 1054. | Mar. 7, 1912, ch. 53 (1st 11 words), 37 Stat. 73. |
| 6966(b) ..... | 34 U.S.C. 1056. | R.S. 1526. |

In subsection (b) the words ''of studies and the order of recitations'' are omitted as surplusage. The words ''classes will not be held on Sunday'' are substituted for the words ''students in said institution shall not be required to pursue their studies on Sunday''.

## § 6967. Degree on graduation

Under regulations prescribed by the Secretary of the Navy, the Superintendent of the Naval Academy may confer the degree of bachelor of science upon graduates of the Academy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 434.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6967 ..... | 34 U.S.C. 1057a (less last sentence). | May 25, 1933, ch. 37, 48 Stat. 73 (less last sentence); Aug. 9, 1946, ch. 932, 60 Stat. 968; Aug. 4, 1949, ch. 393, § 13, 63 Stat. 559; Aug. 18, 1949, ch. 476, 63 Stat. 614. |

The word ''regulations'' is substituted for the words ''such rules and regulations''. Since the Naval Academy is now accredited, the words ''from and after the date of accrediting of said Academy'' are omitted as executed.

DEGREES FOR PERSONS WHO GRADUATED BEFORE ACCREDITING OF NAVAL ACADEMY

Section 35 of act Aug. 10, 1956, provided in part that, under conditions prescribed by the Secretary of the Navy, the Superintendent of the United States Naval Academy may confer the degree of bachelor of science upon living graduates of the Academy who were graduated before the date of accrediting of the Academy and who meet the requirements of the Academy for that degree.

## § 6968. Board of Visitors

(a) A Board of Visitors to the Naval Academy is constituted annually of—

(1) the chairman of the Committee on Armed Services of the Senate, or his designee;

(2) three other members of the Senate designated by the Vice President or the President pro tempore of the Senate, two of whom are members of the Committee on Appropriations of the Senate;

(3) the chairman of the Committee on Armed Services of the House of Representatives, or his designee;

(4) four other members of the House of Representatives designated by the Speaker of the House of Representatives, two of whom are members of the Committee on Appropriations of the House of Representatives; and

(5) six persons designated by the President.

(b) The persons designated by the President serve for three years each except that any member whose term of office has expired shall continue to serve until his successor is appointed. The President shall designate two persons each year to succeed the members whose terms expire that year.

(c) If a member of the Board dies or resigns, a successor shall be designated for the unexpired portion of the term by the official who designated the member.

(d) The Board shall visit the Academy annually. With the approval of the Secretary of the Navy, the Board or its members may make other visits to the Academy in connection with the duties of the Board or to consult with the Superintendent of the Academy.

(e) The Board shall inquire into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider.

(f) Within 60 days after its annual visit, the Board shall submit a written report to the President of its action and of its views and recommendations pertaining to the Academy. Any report of a visit, other than the annual visit, shall, if approved by a majority of the members of the Board, be submitted to the President within 60 days after the approval.

(g) Upon approval by the Secretary, the Board may call in advisers for consultation.

(h) While performing his duties, each member of the Board and each adviser shall be reimbursed under Government travel regulations for his travel expenses.

(Aug. 10, 1956, ch. 1041, 70A Stat. 434; Pub. L. 96–579, § 13(b), Dec. 23, 1980, 94 Stat. 3369; Pub. L. 104–106, div. A, title X, § 1061(e)(2), title XV, § 1502(a)(12), Feb. 10, 1996, 110 Stat. 443, 503; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6968(a), (b). | 34 U.S.C. 1083. | June 29, 1948, ch. 714, § 1, 62 Stat. 1094. |

HISTORICAL AND REVISION NOTES—CONTINUED

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| | 34 U.S.C. 1084. | June 29, 1948, ch. 714, § 2, 62 Stat. 1094. |
| 6968(c) ..... | 34 U.S.C. 1085. | June 29, 1948, ch. 714, § 3, 62 Stat. 1094. |
| 6968(d) ..... | 34 U.S.C. 1086. | June 29, 1948, ch. 714, § 4, 62 Stat. 1094; June 30, 1954, ch. 432, § 732, 68 Stat. 356. |
| 6968(e), (f), (g). | 34 U.S.C. 1087. | June 29, 1948, ch. 714, § 5, 62 Stat. 1094. |
| 6968(h) .... | 34 U.S.C. 1088. | June 29, 1948, ch. 714, § 6, 62 Stat. 1094. |

In subsection (a) the words ''A Board of Visitors to the Naval Academy is constituted annually'' are substituted for the words ''There shall be appointed * * * every year a Board of Visitors'', since appointments, in the strict sense, are not involved.

In subsection (b) the language establishing staggered terms is eliminated as executed, and the existence of such terms is recognized by the use of the words ''two persons shall be designated by him each year to succeed the members whose terms expire that year''. No effect is given to the language ''the nine Presidential appointees''. The hearings indicate that one of the bills considered provided for nine such ''appointees'', and it appears that the number nine was inadvertently retained. The provision specifically authorizes only six Presidential designees.

AMENDMENTS

1999—Subsec. (a)(3). Pub. L. 106–65 substituted ''Committee on Armed Services'' for ''Committee on National Security''.

1996—Subsec. (a)(3). Pub. L. 104–106, § 1502(a)(12), substituted ''National Security'' for ''Armed Services''.

Subsec. (h). Pub. L. 104–106, § 1061(e)(2), struck out ''is entitled to not more than $5 a day and'' after ''each adviser''.

1980—Subsec. (b). Pub. L. 96–579 required member whose term of office had expired to continue service until appointment of a successor.

## § 6969. Band: composition

(a) The Naval Academy Band shall be composed of one leader, one second leader, and such enlisted members of the Navy as may be assigned.

(b) In determining years of service for the purpose of retirement, and in determining eligibility for reenlistment bonus, the members who are assigned as leader and second leader shall be treated as if they had not been so assigned.

(c) The enlisted members assigned to the Naval Academy Band shall be distributed in grade substantially the same as in the United States Navy Band.

(Aug. 10, 1956, ch. 1041, 70A Stat. 435; Pub. L. 87–649, § 14c(52), Sept. 7, 1962, 76 Stat. 501.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6969 ..... | 34 U.S.C. 1091a. | Feb. 14, 1931, ch. 184, 46 Stat. 1111; July 17, 1953, ch. 226, § 2, 67 Stat. 181. |

In subsection (a) the words ''of the Navy'' are supplied since the requirement that the distribution in ratings be similar to that in the United States Navy Band indicates that the Naval Academy Band should not include members of the Marine Corps, and it is so interpreted.

In subsection (b) the words ''an officer in the grade of warrant officer, W–1,'' are substituted for the words ''a warrant officer'' because the Warrant Officer Act of 1954 established the grade of warrant officer, W–1, in lieu of all the former warrant officer (as distinguished from commissioned warrant officer) grades. The second sentence covers that part of the second proviso which relates to pay and makes reference to the Career Compensation Act of 1949, since it is that Act which governs entitlement to basic pay and the computation of cumulative years of creditable service. Retirement rights and reenlistment bonuses referred to in the second proviso are covered in the third sentence of this subsection, giving recognition to the fact that the status of the members who are assigned as leader and second leader of the band remains unchanged in these respects.

AMENDMENTS

1962—Subsec. (b). Pub. L. 87–649 repealed first and second sentences which related to pay and allowances for the leader and second leader of the Naval Academy Band, and to crediting of service for pay purposes. See sections 207 and 424 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

PERMANENT GRADE OF PRESENT LEADER OF BAND

Section 3 of act July 17, 1953, ch. 226, 67 Stat. 180, authorized President to appoint present leader of United States Navy Band to permanent commissioned grade of commander in the Navy, and that such appointment shall be deemed to be not in the line of the Navy or in any staff corps of the Navy.

## § 6970. Permanent professors: retirement for years of service; authority for deferral

(a) RETIREMENT FOR YEARS OF SERVICE.—(1) Except as provided in subsection (b), an officer of the Navy or Marine Corps serving as a permanent professor at the Naval Academy in the grade of commander or lieutenant colonel who is not on a list of officers recommended for promotion to the grade of captain or colonel, as the case may be, shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 28 years of active commissioned service.

(2) Except as provided in subsection (b), an officer of the Navy or Marine Corps serving as a permanent professor at the Naval Academy in the grade of captain or colonel who is not on a list of officers recommended for promotion to the grade of rear admiral (lower half) or brigadier general, as the case may be, shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 30 years of active commissioned service.

(b) CONTINUATION ON ACTIVE DUTY.—(1) An officer subject to retirement under subsection (a) may have his retirement deferred and be continued on active duty by the Secretary of the Navy.

(2) Subject to section 1252 of this title, the Secretary of the Navy shall determine the period of any continuation on active duty under this section.

(c) ELIGIBILITY FOR PROMOTION.—A permanent professor at the Naval Academy in the grade of commander or lieutenant colonel who is continued on active duty as a permanent professor under subsection (b) remains eligible for consideration for promotion to the grade of captain or colonel, as the case may be.

(d) RETIRED GRADE AND RETIRED PAY.—Each officer retired under this section—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade determined under section 1370 of this title; and

(2) is entitled to retired pay computed under section 6333 of this title.

(Added Pub. L. 109–163, div. A, title V, § 509(b)(1), Jan. 6, 2006, 119 Stat. 3229.)

PRIOR PROVISIONS

A prior section 6970, acts Aug. 10, 1956, ch. 1041, 70A Stat. 435; Nov. 2, 1966, Pub. L. 89–718, § 37, 80 Stat. 1120, related to detailing and duties of storekeeper at the Naval Academy, prior to repeal by Pub. L. 104–201, div. A, title III, § 370(c), (e), Sept. 23, 1996, 110 Stat. 2499, effective Oct. 1, 1996.

## § 6971. Midshipmen's store, trade shops, dairy, and laundry: nonappropriated fund instrumentality and accounts

(a) OPERATION AS NONAPPROPRIATED FUND INSTRUMENTALITY.—The Superintendent of the Naval Academy shall operate the Naval Academy activities referred to in subsection (b) as a nonappropriated fund instrumentality under the jurisdiction of the Navy.

(b) COVERED ACTIVITIES.—The nonappropriated fund instrumentality required under subsection (a) shall consist of the following Naval Academy activities:

(1) The midshipmen's store.
(2) The barber shop.
(3) The cobbler shop.
(4) The tailor shop.
(5) The dairy (if any).
(6) The laundry.

(c) NONAPPROPRIATED FUND ACCOUNTS.—The Superintendent of the Naval Academy shall administer a separate nonappropriated fund account for each of the Naval Academy activities included in the nonappropriated fund instrumentality required under subsection (a).

(d) CREDITING OF REVENUE.—The Superintendent shall credit all revenue received from a Naval Academy activity referred to in subsection (b) to the account administered with respect to that activity under subsection (c), and amounts so credited shall be available for operating expenses of that activity.

(e) REGULATIONS.—This section shall be carried out under regulations prescribed by the Secretary of the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 435; Pub. L. 89–718, § 38, Nov. 2, 1966, 80 Stat. 1120; Pub. L. 103–337, div. A, title III, § 376, Oct. 5, 1994, 108 Stat. 2736; Pub. L. 104–201, div. A, title III, § 370(a), Sept. 23, 1996, 110 Stat. 2498; Pub. L. 105–85, div. B, title XXVIII, § 2871(c)(1), Nov. 18, 1997, 111 Stat. 2015.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6971(a) ..... | 34 U.S.C. 1108b (less last proviso). | July 26, 1946, ch. 675, § 2 (less last proviso), 60 Stat. 704. |
| 6971(b) ..... | 34 U.S.C. 1106. | Aug. 5, 1939, ch. 448, § 1, 53 Stat. 1210. |

In subsection (a) the second listing of the activities is omitted for brevity.

In subsection (b) the words ''including midshipmen'' are omitted as surplusage. The words ''are available for the maintenance of'' are substituted for the words ''are appropriated for the purpose of providing and maintaining''.

AMENDMENTS

1997—Subsec. (b)(5). Pub. L. 105–85 inserted ''(if any)'' before period at end.

1996—Pub. L. 104–201 substituted ''trade shops, dairy, and laundry: nonappropriated fund instrumentality and accounts'' for ''laundry, barber shop, cobbler shop, tailor shop, and dairy: disposition of funds'' in section catchline and amended text generally. Prior to amendment, text consisted of one undesignated par. providing for deposit and expenditure of funds from operation of midshipmen's store, including barber shop, cobbler shop, and tailor shop at Naval Academy, Academy dairy, and Academy laundry.

1994—Pub. L. 103–337 struck out ''(a)'' before ''Funds collected from the operation of the midshipmen's'', substituted ''the Academy dairy, and the Academy laundry'' for ''and the Academy dairy'', and struck out subsec. (b) which read as follows: ''Funds collected from the operation of the Academy laundry shall be accounted for as public funds and are available for the maintenance of necessary laundry service for Academy activities and personnel.''

1966—Subsec. (a). Pub. L. 89–718 substituted ''person designated by the Secretary of the Navy under section 6970(b) of this title'' for ''Bureau of Supplies and Accounts''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 370(e) of Pub. L. 104–201, set out as a note under section 2105 of Title 5, Government Organization and Employees.

## § 6972. Chapel: crypt and window spaces

The crypt and window spaces of the Naval Academy Chapel may be used only for memorials to officers of the Navy who have successfully commanded a fleet or squadron in battle or who have received the thanks of Congress for conspicuously distinguished services in time of war. No memorial to an officer may be accepted for, or installed in, the crypt or window spaces until at least five years after the death of that officer.

(Aug. 10, 1956, ch. 1041, 70A Stat. 435.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6972 ..... | 34 U.S.C. 1111. | Mar. 3, 1909, ch. 255, 35 Stat. 773 (2d par.). |

The words ''United States'' in connection with the chapel, the words ''of the United States'' in connection with naval officers and with Congress, and the words ''or may receive'' are omitted as surplusage. The proviso is omitted as executed.

## § 6973. Gifts, bequests, and loans of property: acceptance for benefit and use of Naval Academy

(a) The Secretary of the Navy may accept, hold, administer, and spend any gift or bequest of personal property, and may accept, hold, and administer any loan of personal property other than money, that is made on the condition that it be used for the benefit of, or for use in connection with, the Naval Academy or the Naval Academy Museum, its collection, or its services.

Gifts and bequests of money and the proceeds from the sales of property received as gifts shall be deposited in the Treasury in the fund called ''United States Naval Academy Gift and Museum Fund''. The Secretary may disburse funds deposited under this subsection for the benefit or use of the Naval Academy (including the Naval Academy Museum) subject to the terms of the gift or bequest.

(b) The Secretary shall prescribe written guidelines to be used for determinations of whether the acceptance of money, any personal property, or any loan of personal property under subsection (a) would reflect unfavorably on the ability of the Department of the Navy or any officer or employee of the Department of the Navy to carry out responsibilities or duties in a fair and objective manner, or would compromise either the integrity or the appearance of the integrity of any program of the Department of the Navy or any officer or employee of the Department of the Navy who is involved in any such program.

(c) For the purpose of Federal income, estate, and gift taxes, property that is accepted under this section is considered as a gift or bequest to or for the use of the United States.

(d) Upon the request of the Secretary of the Navy, the Secretary of the Treasury may invest, reinvest, or retain investments of money or securities comprising any part of the United States Naval Academy Gift and Museum Fund in securities of the United States or in securities guaranteed as to principal and interest by the United States. The interest and benefits accruing from those securities shall be deposited to the credit of the United States Naval Academy Gift and Museum Fund and may be disbursed as provided in this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 436; Pub. L. 106–398, § 1 [[div. A], title IX, § 942(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–241.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6973(a) ..... | 34 U.S.C. 1115. | Mar. 31, 1944, ch. 147, § 1, 58 Stat. 135. |
| | 34 U.S.C. 1115a. | Mar. 31, 1944, ch. 147, § 2, 58 Stat. 135. |
| 6973(b) ..... | 34 U.S.C. 1115b. | Mar. 31, 1944, ch. 147, § 3, 58 Stat. 135. |
| 6973(c) ..... | 34 U.S.C. 1115c. | Mar. 31, 1944, ch. 147, § 4, 58 Stat. 135. |

AMENDMENTS

2000—Pub. L. 106–398, § 1 [[div. A], title IX, § 942(c)(4)], substituted ''Gifts, bequests, and loans of property: acceptance for benefit and use of Naval Academy'' for ''Gifts and bequests: acceptance for benefit of Naval Academy'' as section catchline.

Subsec. (a). Pub. L. 106–398, § 1 [[div. A], title IX, § 942(c)(1)], in first sentence, substituted ''any gift or bequest of personal property, and may accept, hold, and administer any loan of personal property other than money, that is'' for ''gifts and bequests of personal property'' and inserted ''or the Naval Academy Museum, its collection, or its services'' before period at end, in second sentence, substituted ''United States Naval Academy Gift and Museum Fund'' for ''United States Naval Academy general gift fund'', and, in last sentence, inserted ''(including the Naval Academy Museum)'' after ''the Naval Academy''.

Subsecs. (b), (c). Pub. L. 106–398, § 1 [[div. A], title IX, § 942(c)(2)], added subsec. (b) and redesignated former subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 106–398, § 1 [[div. A], title IX, § 942(c)(3)], substituted ''United States Naval Academy Gift and Museum Fund'' for ''United States Naval Academy general gift fund'' in two places.

Pub. L. 106–398, § 1 [[div. A], title IX, § 942(c)(2)(A)], redesignated subsec. (c) as (d).

TEMPORARY AUTHORITY TO DISPOSE OF GIFT PREVIOUSLY ACCEPTED FOR NAVAL ACADEMY

Pub. L. 106–398, § 1 [[div. A], title IX, § 943], Oct. 30, 2000, 114 Stat. 1654, 1654A–243, provided that: ''Notwithstanding section 6973 of title 10, United States Code, during fiscal year 2001 the Secretary of the Navy may dispose of a gift accepted before the date of the enactment of this Act [Oct. 30, 2000] for the United States Naval Academy by disbursing from the United States Naval Academy general gift fund to an entity designated by the donor of the gift the amount equal to the current cash value of that gift.''

## § 6974. United States Naval Academy Museum Fund: references to Fund

Any reference in a law, regulation, document, paper, or other record of the United States to the United States Naval Academy Museum Fund formerly maintained under this section shall be deemed to refer to the United States Naval Academy Gift and Museum Fund maintained under section 6973 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 436; Pub. L. 106–398, § 1 [[div. A], title IX, § 942(d)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–242.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 6974(a) ..... | 34 U.S.C. 1118. | Mar. 26, 1938, ch. 52, § 3, 52 Stat. 119. |
| 6974(b) ..... | 34 U.S.C. 1119. | Mar. 26, 1938, ch. 52, § 4, 52 Stat. 119. |
| 6974(c) ..... | 34 U.S.C. 1120. | Mar. 26, 1938, ch. 52, § 5, 52 Stat. 119. |

AMENDMENTS

2000—Pub. L. 106–398 amended section catchline and text generally. Prior to amendment, section related to acceptance and administration of gifts, bequests, and loans for the benefit of the Naval Academy Museum.

CONSOLIDATION OF NAVAL ACADEMY GENERAL GIFT FUND AND NAVAL ACADEMY MUSEUM FUND

Pub. L. 106–398, § 1 [[div. A], title IX, § 942(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–241, provided that:

''(1) The Secretary of the Navy shall transfer all amounts in the United States Naval Academy Museum Fund established by section 6974 of title 10, United States Code, to the gift fund maintained for the benefit and use of the United States Naval Academy under section 6973 of such title. Upon completing the transfer, the Secretary shall close the United States Naval Academy Museum Fund.

''(2) Amounts transferred under this subsection shall be merged with other amounts in the gift fund to which transferred and shall be available for the purposes for which amounts in that gift fund are available.''

## § 6975. Acceptance of guarantees with gifts for major projects

(a) ACCEPTANCE AUTHORITY.—Subject to subsection (c), the Secretary of the Navy may accept from a donor or donors a qualified guarantee for the completion of a major project for the benefit of the Naval Academy.

(b) OBLIGATION AUTHORITY.—The amount of a qualified guarantee accepted under this section

shall be considered as contract authority to provide obligation authority for purposes of Federal fiscal and contractual requirements. Funds available for a project for which such a guarantee has been accepted may be obligated and expended for the project without regard to whether the total amount of the funds and other resources available for the project (not taking into account the amount of the guarantee) is sufficient to pay for completion of the project.

(c) NOTICE OF PROPOSED ACCEPTANCE.—The Secretary of the Navy may not accept a qualified guarantee under this section for the completion of a major project until after the expiration of 30 days following the date upon which a report of the facts concerning the proposed guarantee is submitted to Congress or, if earlier, the expiration of 14 days following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.

(d) PROHIBITION ON COMMINGLING OF FUNDS.—The Secretary of the Navy may not enter into any contract or other transaction involving the use of a qualified guarantee and appropriated funds in the same contract or transaction.

(e) DEFINITIONS.—In this section:

(1) MAJOR PROJECT.—The term ''major project'' means a project for the purchase or other procurement of real or personal property, or for the construction, renovation, or repair of real or personal property, the total cost of which is, or is estimated to be, at least $1,000,000.

(2) QUALIFIED GUARANTEE.—The term ''qualified guarantee'', with respect to a major project, means a guarantee that—

(A) is made by one or more persons in connection with a donation, specifically for the project, of a total amount in cash or securities that, as determined by the Secretary of the Navy, is sufficient to defray a substantial portion of the total cost of the project;

(B) is made to facilitate or expedite the completion of the project in reasonable anticipation that other donors will contribute sufficient funds or other resources in amounts sufficient to pay for completion of the project;

(C) is set forth as a written agreement that provides for the donor to furnish in cash or securities, in addition to the donor's other gift or gifts for the project, any additional amount that may become necessary for paying the cost of completing the project by reason of a failure to obtain from other donors or sources funds or other resources in amounts sufficient to pay the cost of completing the project; and

(D) is accompanied by—

(i) an irrevocable and unconditional standby letter of credit for the benefit of the Naval Academy that is in the amount of the guarantee and is issued by a major United States commercial bank; or

(ii) a qualified account control agreement.

(3) QUALIFIED ACCOUNT CONTROL AGREEMENT.—The term ''qualified account control agreement'', with respect to a guarantee of a donor, means an agreement among the donor, the Secretary of the Navy, and a major United States investment management firm that—

(A) ensures the availability of sufficient funds or other financial resources to pay the amount guaranteed during the period of the guarantee;

(B) provides for the perfection of a security interest in the assets of the account for the United States for the benefit of the Naval Academy with the highest priority available for liens and security interests under applicable law;

(C) requires the donor to maintain in an account with the investment management firm assets having a total value that is not less than 130 percent of the amount guaranteed; and

(D) requires the investment management firm, at any time that the value of the account is less than the value required to be maintained under subparagraph (C), to liquidate any noncash assets in the account and reinvest the proceeds in Treasury bills issued under section 3104 of title 31.

(4) MAJOR UNITED STATES COMMERCIAL BANK.—The term ''major United States commercial bank'' means a commercial bank that—

(A) is an insured bank (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813));

(B) is headquartered in the United States; and

(C) has net assets in a total amount considered by the Secretary of the Navy to qualify the bank as a major bank.

(5) MAJOR UNITED STATES INVESTMENT MANAGEMENT FIRM.—The term ''major United States investment management firm'' means any broker, dealer, investment adviser, or provider of investment supervisory services (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) or section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2)) or a major United States commercial bank that—

(A) is headquartered in the United States; and

(B) holds for the account of others investment assets in a total amount considered by the Secretary of the Navy to qualify the firm as a major investment management firm.

(Added Pub. L. 106–65, div. B, title XXVIII, § 2871(b)(1), Oct. 5, 1999, 113 Stat. 873; amended Pub. L. 106–398, § 1 [[div. A], title X, § 1087(a)(17)], Oct. 30, 2000, 114 Stat. 1654, 1654A–291; Pub. L. 108–136, div. A, title X, § 1031(a)(56), Nov. 24, 2003, 117 Stat. 1603.)

PRIOR PROVISIONS

A prior section 6975, added Pub. L. 103–337, div. A, title V, § 556(b)(1), Oct. 5, 1994, 108 Stat. 2774, related to position of athletic director of Naval Academy and to administration of nonappropriated fund account for athletics program of Naval Academy, prior to repeal by Pub. L. 104–106, div. A, title V, § 533(b), Feb. 10, 1996, 110 Stat. 315; Pub. L. 105–85, div. A, title X, § 1073(d)(1)(C), Nov. 18, 1997, 111 Stat. 1905, effective Oct. 5, 1994.

AMENDMENTS

2003—Subsec. (c). Pub. L. 108–136 inserted before period at end ''or, if earlier, the expiration of 14 days fol-

lowing the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title''.

2000—Subsec. (e)(5). Pub. L. 106–398 inserted a closing parenthesis after ''80b–2)'' in introductory provisions.

### § 6976. Operation of Naval Academy dairy farm

(a) DISCRETION REGARDING CONTINUED OPERATION.—(1) Subject to paragraph (2), the Secretary of the Navy may terminate or reduce the dairy or other operations conducted at the Naval Academy dairy farm located in Gambrills, Maryland.

(2) Notwithstanding the termination or reduction of operations at the Naval Academy dairy farm under paragraph (1), the real property containing the dairy farm (consisting of approximately 875 acres)—

(A) may not be declared to be excess real property to the needs of the Navy or transferred or otherwise disposed of by the Navy or any Federal agency; and

(B) shall be maintained in its rural and agricultural nature.

(b) LEASE AUTHORITY.—(1) Subject to paragraph (2), to the extent that the termination or reduction of operations at the Naval Academy dairy farm permit, the Secretary of the Navy may lease the real property containing the dairy farm, and any improvements and personal property thereon, to such persons and under such terms as the Secretary considers appropriate. In leasing any of the property, the Secretary may give a preference to persons who will continue dairy operations on the property.

(2) Any lease of property at the Naval Academy dairy farm shall be subject to a condition that the lessee maintain the rural and agricultural nature of the leased property.

(c) LEASE PROCEEDS.—All money received from a lease entered into under subsection (b) shall be retained by the Superintendent of the Naval Academy and shall be available to cover expenses related to the property described in subsection (a), including reimbursing nonappropriated fund instrumentalities of the Naval Academy.

(d) EFFECT OF OTHER LAWS.—Nothing in section 6971 of this title shall be construed to require the Secretary of the Navy or the Superintendent of the Naval Academy to operate a dairy farm for the Naval Academy in Gambrills, Maryland, or any other location.

(Added Pub. L. 105–85, div. B, title XXVIII, § 2871(a)(1), Nov. 18, 1997, 111 Stat. 2014; amended Pub. L. 106–65, div. B, title XXVIII, § 2814, Oct. 5, 1999, 113 Stat. 851.)

AMENDMENTS

1999—Subsecs. (c), (d). Pub. L. 106–65 added subsec. (c) and redesignated former subsec. (c) as (d).

### § 6977. Grants for faculty research for scientific, literary, and educational purposes: acceptance; authorized grantees

(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Navy may authorize the Superintendent of the Academy to accept qualifying research grants under this section. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Academy for a scientific, literary, or educational purpose.

(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The Superintendent shall use the funds in the account in accordance with applicable regulations and the terms and conditions of the grants received.

(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Academy may be used to pay expenses incurred by the Academy in applying for, and otherwise pursuing, award of a qualifying research grant.

(f) REGULATIONS.—The Secretary of the Navy shall prescribe regulations for the administration of this section.

(Added Pub. L. 105–261, div. A, title X, § 1063(b)(1), Oct. 17, 1998, 112 Stat. 2130.)

### § 6978. Mixed-funded athletic and recreational extracurricular programs: authority to manage appropriated funds in same manner as nonappropriated funds

(a) AUTHORITY.—In the case of a Naval Academy mixed-funded athletic or recreational extracurricular program, the Secretary of the Navy may designate funds appropriated to the Department of the Navy and available for that program to be treated as nonappropriated funds and expended for that program in accordance with laws applicable to the expenditure of nonappropriated funds. Appropriated funds so designated shall be considered to be nonappropriated funds for all purposes and shall remain available until expended.

(b) COVERED PROGRAMS.—In this section, the term ''Naval Academy mixed-funded athletic or recreational extracurricular program'' means an athletic or recreational extracurricular program of the Naval Academy to which each of the following applies:

(1) The program is not considered a morale, welfare, or recreation program.

(2) The program is supported through appropriated funds.

(3) The program is supported by a nonappropriated fund instrumentality.

(4) The program is not a private organization and is not operated by a private organization.

(Added Pub. L. 108–375, div. A, title V, § 544(b)(1), Oct. 28, 2004, 118 Stat. 1906.)

EFFECTIVE DATE

Section applicable only with respect to funds appropriated for fiscal years after fiscal year 2004, see section

544(d) of Pub. L. 108–375, set out as a note under section 4359 of this title.

### § 6979. Midshipmen: charges and fees for attendance; limitation

(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the Naval Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to midshipmen for which a charge or fee is imposed as of October 5, 1994. The Secretary of Defense shall notify Congress of any change made by the Naval Academy in the amount of a charge or fee authorized under this subsection.

(Added Pub. L. 108–375, div. A, title V, § 545(b)(1), Oct. 28, 2004, 118 Stat. 1908.)

## CHAPTER 605—UNITED STATES NAVAL POSTGRADUATE SCHOOL

Sec.
7041. Function.
7042. President; assistants.
7043. Provost and Academic Dean.
7044. Civilian teachers: number; compensation.
7045. Officers of the other armed forces; enlisted members: admission.
7046. Officers of foreign countries: admission.
7047. Students at institutions of higher education: admission.
7048. Conferring of degrees on graduates.
7049. Defense industry civilians: admission to defense product development program.
7050. Grants for faculty research for scientific, literary, and educational purposes: acceptance, authorized grantees.

AMENDMENTS

2006—Pub. L. 109–163, div. A, title V, § 522(c)(2), Jan. 6, 2006, 119 Stat. 3242, added 7050.

2004—Pub. L. 108–375, div. A, title V, § 557(c), Oct. 28, 2004, 118 Stat. 1916, substituted ''President; assistants'' for ''Superintendent; assistants'' in item 7042 and ''Provost and Academic Dean'' for ''Academic Dean'' in item 7043.

2000—Pub. L. 106–398, § 1 [[div. A], title V, § 535(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–113, added item 7049.

1997—Pub. L. 105–85, div. A, title V, § 551(b)(2), Nov. 18, 1997, 111 Stat. 1748, substituted ''Officers of the other armed forces; enlisted members:'' for ''Officers of Army, Air Force, and Coast Guard:'' in item 7045.

1992—Pub. L. 102–484, div. A, title X, § 1073(b), Oct. 23, 1992, 106 Stat. 2511, added item 7047 and redesignated former item 7047 as 7048.

### § 7041. Function

There is a United States Naval Postgraduate School, the primary function of which is to provide advanced instruction and professional and technical education and research opportunities for commissioned officers of the naval service in—

(1) their practical and theoretical duties;

(2) the science, physics, and systems engineering of current and future naval warfare doctrine, operations, and systems; and

(3) the integration of naval operations and systems into joint, combined, and multinational operations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 437; Pub. L. 109–163, div. A, title V, § 523(a), Jan. 6, 2006, 119 Stat. 3244.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7041 ..... | 34 U.S.C. 1076. | July 31, 1947, ch. 420, § 1, 61 Stat. 705. |

The words ''There is a'' are substituted for the words ''That the Secretary of the Navy is hereby authorized and directed to establish the'', as the Postgraduate School is in operation. The words ''technical education'' are substituted for the word ''training'' to describe more aptly the higher level of instruction at the Postgraduate School. The words ''naval service'' are substituted for the words ''Regular Navy and Marine Corps and the reserve components thereof''. The word ''their'' is substituted for the words ''of commissioned officers''.

AMENDMENTS

2006—Pub. L. 109–163 amended text generally. Prior to amendment, text read as follows: ''There is a United States Naval Postgraduate School for the advanced instruction and technical education of commissioned officers of the naval service in their practical and theoretical duties.''

### § 7042. President; assistants

(a)(1) The President of the Naval Postgraduate School shall be one of the following:

(A) An officer of the Navy in a grade not below the grade of captain who is detailed to such position.

(B) A civilian individual having qualifications appropriate to the position of President of the Naval Postgraduate School who is assigned to such position.

(2) The President of the Naval Postgraduate School shall be detailed or assigned to such position by the Secretary of the Navy, upon the recommendation of the Chief of Naval Operations.

(3) An individual assigned to the position of President of the Naval Postgraduate School under paragraph (1)(B) shall serve in that position for a term of not more than five years and may be reassigned to that position for an additional term of up to five years.

(4) The qualifications appropriate for selection for detail or assignment to the position of President of the Naval Postgraduate School include the following:

(A) A doctorate degree in a field of study relevant to the mission and function of the Naval Postgraduate School, in the case of a civilian, or a doctorate or master's degree in such a field of study, in the case of an officer of the Navy.

(B) A comprehensive understanding of the Navy, the Department of Defense, and joint and combined operations.

(C) Leadership experience at the senior level in a large and diverse organization.

(D) Demonstrated ability to foster and encourage a program of research in order to sustain academic excellence.

(E) Other qualifications, as determined by the Secretary of the Navy.

(b) The Secretary shall detail officers of the Navy and the Marine Corps of appropriate

grades and qualifications to assist the President in—

(1) the advanced instruction and professional and technical education of students and the provision of research opportunities for students; and

(2) the administration of the Postgraduate School.

(Aug. 10, 1956, ch. 1041, 70A Stat. 437; Pub. L. 96–513, title V, § 503(53), Dec. 12, 1980, 94 Stat. 2915; Pub. L. 108–375, div. A, title V, § 557(a)(3), Oct. 28, 2004, 118 Stat. 1915; Pub. L. 109–163, div. A, title V, §§ 523(b), 524, Jan. 6, 2006, 119 Stat. 3244, 3245.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7042 ..... | 34 U.S.C. 1076a. | July 31, 1947, ch. 420, § 2, 61 Stat. 705. |

In subsection (a) the word ''Regular'' is omitted as covered by the term ''active list''.

In subsection (b) the words ''line and staff'' and ''as may be necessary'' are omitted as surplusage. The word ''grades'' is substituted for the word ''ranks''. The words ''advanced instruction and technical education'' are substituted for the words ''training * * * in the practical and theoretical duties of commissioned naval officers''.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–163, § 524, amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The Secretary of the Navy shall detail as President of the Naval Postgraduate School an officer on the active-duty list in the line of the Navy eligible for command at sea not below the grade of captain. The President has military command of the Postgraduate School.''

Subsec. (b)(1). Pub. L. 109–163, § 523(b), substituted ''and professional and technical education of students and the provision of research opportunities for students'' for ''and technical education of students''.

2004—Pub. L. 108–375 substituted ''President'' for ''Superintendent'' wherever appearing in section catchline and text.

1980—Subsec. (a). Pub. L. 96–513 substituted ''active-duty list'' for ''active list''.

CHANGE OF NAME

Pub. L. 108–375, div. A, title V, § 557(a)(1), (2), Oct. 28, 2004, 118 Stat. 1915, provided that:

''(1) The position of Superintendent of the Naval Postgraduate School is redesignated as President of the Naval Postgraduate School.

''(2) Any reference to the Superintendent of the Naval Postgraduate School in any law, rule, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the President of the Naval Postgraduate School.''

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.

## § 7043. Provost and Academic Dean

(a) There is at the Naval Postgraduate School the civilian position of Provost and Academic Dean. The Provost and Academic Dean shall be appointed, to serve for periods of not more than five years, by the Secretary of the Navy. Before making an appointment to the position of Provost and Academic Dean, the Secretary shall consult with the Board of Advisors for the Naval Postgraduate School and shall consider any recommendation of the leadership and faculty of the Naval Postgraduate School regarding an appointment to that position.

(b) The Provost and Academic Dean is entitled to such compensation for his services as the Secretary prescribes, but not more than the rate of compensation authorized for level IV of the Executive Schedule.

(Aug. 10, 1956, ch. 1041, 70A Stat. 437; Pub. L. 85–861, § 1(148), Sept. 2, 1958, 72 Stat. 1513; Pub. L. 89–536, Aug. 11, 1966, 80 Stat. 346; Pub. L. 96–513, title V, § 513(22), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 105–85, div. A, title V, § 551(c), Nov. 18, 1997, 111 Stat. 1748; Pub. L. 108–375, div. A, title V, § 557(b)(3), (4), Oct. 28, 2004, 118 Stat. 1915, 1916.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7043 ..... | 34 U.S.C. 1074 (1st 98 words).<br>34 U.S.C. 1076c. | June 10, 1946, ch. 298 (1st 98 words), 60 Stat. 236.<br>July 31, 1947, ch. 420, § 4, 61 Stat. 706. |

The words ''of the Naval Academy'' following ''Postgraduate School'' are dropped as a result of § 4 of the Act of July 31, 1947 (supra). This Act created the Postgraduate School and in effect transferred the position of Academic Dean of the Postgraduate School of the Naval Academy to the newly created Postgraduate School.

1958 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7043 ..... | 34 App.:1076c (less last sentence). | Aug. 9, 1955, ch. 669, § 1 (less last sentence), 69 Stat. 607. |

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (b), is set out in section 5315 of Title 5, Government Organization and Employees.

AMENDMENTS

2004—Pub. L. 108–375, § 557(b)(3)(B), substituted ''Provost and Academic Dean'' for ''Academic Dean'' in section catchline.

Subsec. (a). Pub. L. 108–375, § 557(b)(3)(A), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''There is at the Naval Postgraduate School the civilian position of Academic Dean. The Academic Dean shall be appointed, to serve for periods of not more than five years, by the Secretary of the Navy upon the recommendation of the Postgraduate School Council consisting of the Superintendent, the Deputy Superintendent, and the directors of the Technical, Administrative, and Professional Divisions of the school.''

Subsec. (b). Pub. L. 108–375, § 557(b)(4), substituted ''Provost and Academic Dean'' for ''Academic Dean''.

1997—Subsec. (b). Pub. L. 105–85 substituted ''level IV of the Executive Schedule'' for ''grade GS–18 of the General Schedule under section 5332 of title 5''.

1980—Subsec. (b). Pub. L. 96–513 substituted ''authorized for grade GS–18 of the General Schedule under section 5332 of title 5'' for ''provided for grade 18 of the general schedule of the Classification Act of 1949, as amended''.

1966—Subsec. (b). Pub. L. 89–536 substituted for a limit of $13,500 per annum a rate of compensation comparable to grade 18 of the general schedule of the Classification Act of 1949, as amended.

1958—Pub. L. 85–861, among other changes, increased the maximum compensation of the Academic Dean from $12,000 to $13,500 a year.

CHANGE OF NAME

Pub. L. 108–375, div. A, title V, § 557(b)(1), (2), Oct. 28, 2004, 118 Stat. 1915, provided that:

''(1) The position of Academic Dean of the Naval Postgraduate School is redesignated as Provost and Academic Dean of the Naval Postgraduate School.

''(2) Any reference to the Academic Dean of the Naval Postgraduate School in any law, rule, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the Provost and Academic Dean of the Naval Postgraduate School.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

## § 7044. Civilian teachers: number; compensation

The Secretary of the Navy may employ as many civilians as he considers necessary to serve at the Naval Postgraduate School under the direction of the President of the school as senior professors, professors, associate professors, assistant professors, and instructors. The Secretary shall prescribe the compensation of those persons.

(Aug. 10, 1956, ch. 1041, 70A Stat. 437; Pub. L. 108–375, div. A, title V, § 557(a)(4)(A), Oct. 28, 2004, 118 Stat. 1915.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7044 ..... | 34 U.S.C. 1076b (less last sentence). | July 31, 1947, ch. 420, § 3 (less last sentence), 61 Stat. 706; Aug. 30, 1954, ch. 1076, § 1(21), 68 Stat. 968. |

The words ''as many * * * as he considers necessary'' are substituted for the words ''such number * * * as in his opinion may be necessary for the proper instruction of students in the theoretical, academic, and scientific subjects pertaining to the technical and practical aspects of the naval profession'' for brevity.

AMENDMENTS

2004—Pub. L. 108–375 substituted ''President of the school'' for ''Superintendent''.

## § 7045. Officers of the other armed forces; enlisted members: admission

(a)(1) The Secretary of the Navy may permit officers of the Army, Air Force, and Coast Guard to receive instruction at the Naval Postgraduate School. The numbers and grades of such officers shall be as agreed upon by the Secretary of the Navy with the Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security, respectively.

(2)(A) The Secretary may permit an enlisted member of the armed forces to receive instruction at the Naval Postgraduate School through attendance at an executive level seminar.

(B) The Secretary may permit an eligible enlisted member of the armed forces to receive instruction at the Postgraduate School in connection with pursuit of a program of education in information assurance as a participant in the Information Security Scholarship program under chapter 112 of this title. To be eligible for instruction under this subparagraph, the enlisted member must have been awarded a baccalaureate degree by an institution of higher education.

(C) The Secretary may permit an eligible enlisted member of the Navy or Marine Corps to receive instruction from the Postgraduate School in certificate programs and courses required for the performance of the member's duties.

(D) In addition to instruction authorized under subparagraphs (A), (B), and (C), the Secretary may, on a space-available basis, permit an enlisted member of the armed forces who is assigned permanently to the staff of the Postgraduate School or to a nearby command to receive instruction at the Postgraduate School.

(b)(1) Except as provided under paragraph (3), the Department of the Army, the Department of the Air Force, and the Department of Homeland Security shall bear the cost of the instruction received by members detailed for that instruction by the Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security, respectively.

(2) In the case of an enlisted member permitted under subsection (a)(2)(D) to receive instruction at the Postgraduate School on a space-available basis, the Secretary of the Navy shall charge that member only for such costs and fees as the Secretary considers appropriate.

(3) The requirements for payment of costs and fees under paragraph (1) shall be subject to such exceptions as the Secretary of Defense may prescribe for members of the armed forces who receive instruction at the Postgraduate School in connection with pursuit of a degree or certification as participants in the Information Security Scholarship program under chapter 112 of this title.

(c) While receiving instruction at the Postgraduate School, members of the Army, Air Force, and Coast Guard are subject to such regulations, as determined appropriate by the Secretary of the Navy, as apply to students who are members of the naval service.

(d) The Secretary may not award a baccalaureate, masters, or doctorate degree to an enlisted member based upon instruction received at the Postgraduate School under subsection (a)(2)(C).

(Aug. 10, 1956, ch. 1041, 70A Stat. 437; Pub. L. 96–513, title V, § 513(23), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 105–85, div. A, title V, § 551(a), (b)(1), Nov. 18, 1997, 111 Stat. 1747; Pub. L. 105–261, div. A, title X, § 1069(a)(6), Oct. 17, 1998, 112 Stat. 2136; Pub. L. 107–296, title XVII, § 1704(b)(5), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title V, § 532, Nov. 24, 2003, 117 Stat. 1472; Pub. L. 109–163, div. A, title V, § 526(a), (b), Jan. 6, 2006, 119 Stat. 3245, 3246.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7045 ..... | 34 U.S.C. 1076e. | July 31, 1947, ch. 420, § 6, 61 Stat. 706. |

The section is enlarged to cover officers of the Air Force under authority of § 305(a) of the National Security Act of 1947, as amended (5 U.S.C. 171e).

In subsection (a) the words ''at the request of the Secretary of the Army and the Secretary of the Treasury'' are omitted as surplusage. The words ''to receive instruction'' are inserted after the listing of the services and the words ''attendance and'' are omitted. The word ''grades'' is substituted for the word ''ranks''.

In subsection (c) the words ''rules and'' are omitted. The words ''who are officers of the naval service'' are substituted for the words ''of the United States Navy'', since officers of the Marine Corps are occasionally ordered to attend the Postgraduate School on the same basis as officers of the Navy.

AMENDMENTS

2006—Subsec. (a)(2)(C). Pub. L. 109–163, § 526(a)(1)(B), added subpar. (C). Former subpar.(C) redesignated (D).

Subsec. (a)(2)(D). Pub. L. 109–163, § 526(a)(1)(A), (C), redesignated subpar. (C) as (D) and substituted ''subparagraphs (A), (B), and (C)'' for ''subparagraphs (A) and (B)''.

Subsec. (b)(2). Pub. L. 109–163, § 526(a)(2), substituted ''subsection (a)(2)(D)'' for ''subsection (a)(2)(C)''.

Subsec. (d). Pub. L. 109–163, § 526(b), added subsec. (d).

2003—Subsec. (a)(2). Pub. L. 108–136, § 532(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary may permit an enlisted member of the armed forces who is assigned to the Naval Postgraduate School or to a nearby command to receive instruction at the Naval Postgraduate School. Admission of enlisted members for instruction under this paragraph shall be on a space-available basis.''

Subsec. (b). Pub. L. 108–136, § 532(b), designated first sentence as par. (1) and substituted ''Except as provided under paragraph (3), the Department'' for ''The Department'' and ''members'' for ''officers'', designated second sentence as par. (2) and inserted ''under subsection (a)(2)(C)'' after ''permitted'' and ''on a space-available basis'' after ''instruction at the Postgraduate School'' and struck out ''(taking into consideration the admission of enlisted members on a space-available basis)'' before period at end, and added par. (3).

2002—Subsec. (a)(1). Pub. L. 107–296, § 1704(b)(5)(A), substituted ''Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security'' for ''Secretaries of the Army, Air Force, and Transportation''.

Subsec. (b). Pub. L. 107–296, § 1704(b)(5), substituted ''Department of Homeland Security'' for ''Department of Transportation'' and ''Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security'' for ''Secretaries of the Army, Air Force, and Transportation''.

1998—Subsec. (c). Pub. L. 105–261 struck out ''the'' after ''are subject to''.

1997—Pub. L. 105–85, § 551(b)(1), substituted ''Officers of the other armed forces; enlisted members:'' for ''Officers of Army, Air Force, and Coast Guard:'' in section catchline.

Subsec. (a). Pub. L. 105–85, § 551(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 105–85, § 551(a)(2), substituted ''officers detailed'' for ''the students detailed'' and inserted at end ''In the case of an enlisted member permitted to receive instruction at the Postgraduate School, the Secretary of the Navy shall charge that member only for such costs and fees as the Secretary considers appropriate (taking into consideration the admission of enlisted members on a space-available basis).''

Subsec. (c). Pub. L. 105–85, § 551(a)(3), substituted ''members'' for ''officers'' in two places and ''such regulations, as determined appropriate by the Secretary of the Navy,'' for ''same regulations''.

1980—Subsec. (a). Pub. L. 96–513, § 513(23), substituted references to Transportation Department and Secretary for references to Treasury Department and Secretary, respectively.

Subsec. (b). Pub. L. 96–513, § 513(23)(A), substituted reference to Transportation Secretary for reference to Treasury Secretary.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

## § 7046. Officers of foreign countries: admission

(a) The Secretary of the Navy, upon authorization of the President, may permit commissioned officers of the military services of foreign countries to receive instruction at the Naval Postgraduate School.

(b) Officers receiving instruction under this section are subject to the same regulations governing attendance, discipline, discharge, and standards of study as apply to students who are officers of the United States naval service.

(c) No officer of a foreign country is entitled to an appointment in the Navy or the Marine Corps by reason of his completion of the prescribed course of study at the Postgraduate School.

(Aug. 10, 1956, ch. 1041, 70A Stat. 438.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7046 ..... | 34 U.S.C. 1076d. | July 31, 1947, ch. 420, § 5, 61 Stat. 706. |

In subsection (b) the words ''rules and'' are omitted. The words ''United States naval service'' are substituted for the words ''United States Navy'' for uniformity.

In subsection (c) the words ''to any office or position'' are omitted as surplusage. The words ''or Marine Corps'' are inserted, as the word ''Navy'' in this context has been interpreted to include officers of the Marine Corps.

## § 7047. Students at institutions of higher education: admission

(a) ADMISSION PURSUANT TO RECIPROCAL AGREEMENT.—The Secretary of the Navy may enter into an agreement with an accredited institution of higher education to permit a student described in subsection (b) enrolled at that institution to receive instruction at the Naval Postgraduate School on a tuition-free basis. In exchange for the admission of the student, the institution of higher education shall be required to permit an officer of the armed forces to attend on a tuition-free basis courses offered by that institution corresponding in length to the instruction provided to the student at the Naval Postgraduate School.

(b) ELIGIBLE STUDENTS.—A student enrolled at an institution of higher education that is party to an agreement under subsection (a) may be admitted to the Naval Postgraduate School pursuant to that agreement if—

(1) the student is a citizen of the United States or lawfully admitted for permanent residence in the United States; and

(2) the Secretary of the Navy determines that the student has a demonstrated ability in a field of study designated by the Secretary as related to naval warfare and national security.

(Added Pub. L. 102–484, div. A, title X, § 1073(a)(2), Oct. 23, 1992, 106 Stat. 2510.)

PRIOR PROVISIONS

A prior section 7047 was renumbered section 7048 of this title.

### § 7048. Conferring of degrees on graduates

(a) The President of the Naval Postgraduate School, under regulations prescribed by the Secretary of the Navy, may confer on any qualified graduate a bachelor's, master's, or doctor's degree in engineering or a related field.

(b) A degree may not be conferred under this section unless the curriculum leading to that degree is accredited by the appropriate professional authority.

(Aug. 10, 1956, ch. 1041, 70A Stat. 438, § 7047; renumbered § 7048, Pub. L. 102–484, div. A, title X, § 1073(a)(1), Oct. 23, 1992, 106 Stat. 2510; amended Pub. L. 108–375, div. A, title V, § 557(a)(4)(B), Oct. 28, 2004, 118 Stat. 1915.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7047 ..... | 34 U.S.C. 1076f. | Dec. 7, 1945, ch. 559, 59 Stat. 603; July 31, 1947, ch. 420, § 7, 61 Stat. 706. |

In subsection (a) the words ''of science'' are omitted as surplusage since the curriculum is in engineering and related fields.

In subsection (b) the words ''from time to time'' are omitted as surplusage.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–375 substituted ''President'' for ''Superintendent''.

1992—Pub. L. 102–484 renumbered section 7047 of this title as this section.

### § 7049. Defense industry civilians: admission to defense product development program

(a) AUTHORITY FOR ADMISSION.—The Secretary of the Navy may permit eligible defense industry employees to receive instruction at the Naval Postgraduate School in accordance with this section. Any such defense industry employee may only be enrolled in, and may only be provided instruction in, a program leading to a master's degree in a curriculum related to defense product development and systems engineering. No more than 25 such defense industry employees may be enrolled at any one time. Upon successful completion of the course of instruction in which enrolled, any such defense industry employee may be awarded an appropriate degree under section 7048 of this title.

(b) ELIGIBLE DEFENSE INDUSTRY EMPLOYEES.—For purposes of this section, an eligible defense industry employee is an individual employed by a private firm that is engaged in providing to the Department of Defense significant and substantial defense-related systems, products, or services. A defense industry employee admitted for instruction at the school remains eligible for such instruction only so long as that person remains employed by the same firm.

(c) ANNUAL DETERMINATION BY THE SECRETARY OF THE NAVY.—Defense industry employees may receive instruction at the school during any academic year only if, before the start of that academic year, the Secretary of the Navy determines that providing instruction to defense industry employees under this section during that year—

(1) will further the military mission of the school;

(2) will enhance the ability of the Department of Defense and defense-oriented private sector contractors engaged in the design and development of defense systems to reduce the product and project lead times required to bring such systems to initial operational capability; and

(3) will be done on a space-available basis and not require an increase in the size of the faculty of the school, an increase in the course offerings of the school, or an increase in the laboratory facilities or other infrastructure of the school.

(d) PROGRAM REQUIREMENTS.—The Secretary of the Navy shall ensure that—

(1) the curriculum for the defense product development program in which defense industry employees may be enrolled under this section is not readily available through other schools and concentrates on defense product development functions that are conducted by military organizations and defense contractors working in close cooperation; and

(2) the course offerings at the school continue to be determined solely by the needs of the Department of Defense.

(e) TUITION.—The President of the school shall charge tuition for students enrolled under this section at a rate not less than the rate charged for employees of the United States outside the Department of the Navy.

(f) STANDARDS OF CONDUCT.—While receiving instruction at the school, students enrolled under this section, to the extent practicable, are subject to the same regulations governing academic performance, attendance, norms of behavior, and enrollment as apply to Government civilian employees receiving instruction at the school.

(g) USE OF FUNDS.—Amounts received by the school for instruction of students enrolled under this section shall be retained by the school to defray the costs of such instruction. The source, and the disposition, of such funds shall be specifically identified in records of the school.

(Added Pub. L. 106–398, § 1 [[div. A], title V, § 535(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–112; amended Pub. L. 108–136, div. A, title X, § 1031(a)(57), Nov. 24, 2003, 117 Stat. 1603; Pub. L. 108–375, div. A, title V, § 557(a)(4)(B), Oct. 28, 2004, 118 Stat. 1915; Pub. L. 109–163, div. A, title V, § 525, Jan. 6, 2006, 119 Stat. 3245.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–163 inserted ''and systems engineering'' after ''curriculum related to defense product development'' and substituted ''25'' for ''10''.

2004—Subsec. (e). Pub. L. 108–375 substituted ''President'' for ''Superintendent''.

2003—Subsec. (c). Pub. L. 108–136 substituted ''Determination'' for ''Certification'' in heading and struck out '', and certifies to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives,'' after ''determines'' in introductory provisions.

PROGRAM EVALUATION AND REPORT

Pub. L. 106–398, § 1 [[div. A], title V, § 535(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–113, provided that:

''(1) Before the start of the fourth year of instruction, but no earlier than the start of the third year of instruction, of defense industry employees at the Naval Postgraduate School under section 7049 of title 10, United States Code, as added by subsection (a), the Secretary of the Navy shall conduct an evaluation of the admission of such students under that section. The evaluation shall include the following:

''(A) An assessment of whether the authority for instruction of nongovernment civilians at the school has resulted in a discernible benefit for the Government.

''(B) Determination of whether the receipt and disposition of funds received by the school as tuition for instruction of such civilians at the school have been properly identified in records of the school.

''(C) A summary of the disposition and uses made of those funds.

''(D) An assessment of whether instruction of such civilians at the school is in the best interests of the Government.

''(2) Not later than 30 days after completing the evaluation referred to in paragraph (1), the Secretary of the Navy shall submit to the Secretary of Defense a report on the program under such section. The report shall include—

''(A) the results of the evaluation under paragraph (1);

''(B) the Secretary's conclusions and recommendation with respect to continuing to allow nongovernment civilians to receive instruction at the Naval Postgraduate School as part of a program related to defense product development; and

''(C) any proposals for legislative changes recommended by the Secretary.

''(3) Not later than 60 days after receiving the report of the Secretary of the Navy under paragraph (2), the Secretary of Defense shall submit the report, together with any comments that the Secretary considers appropriate, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.''

### § 7050. Grants for faculty research for scientific, literary, and educational purposes: acceptance; authorized grantees

(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Navy may authorize the President of the Naval Postgraduate School to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the School for a scientific, literary, or educational purpose.

(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The President of the Naval Postgraduate School shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Naval Postgraduate School may be used to pay expenses incurred by the School in applying for, and otherwise pursuing, the award of qualifying research grants.

(f) REGULATIONS.—The Secretary shall prescribe regulations for the administration of this section.

(Added Pub. L. 109–163, div. A, title V, § 522(c)(1), Jan. 6, 2006, 119 Stat. 3241.)

## CHAPTER 607—RETIREMENT OF CIVILIAN MEMBERS OF THE TEACHING STAFFS OF THE UNITED STATES NAVAL ACADEMY AND UNITED STATES NAVAL POSTGRADUATE SCHOOL

Sec.
7081. Civilian member; definition; exceptions.[1]
7082. Deferred annuity policy required.
7083. Annuity premium to be paid by monthly installments; government reimbursement.
7084. Age of retirement.
7085. Computation of life annuity.
7086. Physical disability retirement.
7087. Election of annuity for self and beneficiary.
7088. Regulations.

### § 7081. Civilian member: definition; exceptions

(a) In this chapter, the term ''civilian member'' means a civilian member of the teaching staff of the United States Naval Academy or the United States Naval Postgraduate School. It includes the Provost and Academic Dean of the Postgraduate School, senior professors, professors, associate professors, assistant professors, chief instructors, assistant chief instructors, and instructors.

(b) This chapter does not apply to any civilian member who was employed at the Naval Academy or the Postgraduate School on January 16, 1936, and who did not elect to participate in the benefits provided by the Act of January 16, 1936, ch. 3 (49 Stat. 1092).

(c) This chapter does not apply to any person who was a civilian member after September 30, 1956.

(Aug. 10, 1956, ch. 1041, 70A Stat. 438; Pub. L. 85–861, § 1(149), Sept. 2, 1958, 72 Stat. 1513; Pub. L. 101–189, div. A, title XVI, § 1622(e)(8), Nov. 29, 1989, 103 Stat. 1605; Pub. L. 108–375, div. A, title V, § 557(b)(4), Oct. 28, 2004, 118 Stat. 1916.)

HISTORICAL AND REVISION NOTES
1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7081(a) ..... | 34 U.S.C. 1073d. | Jan. 16, 1936, ch. 3, § 5, 49 Stat. 1093; Nov. 28, 1943, ch. 331, § 2, 57 Stat. 595. |
| | 34 U.S.C. 1074 (less 1st 98 words). | June 10, 1946, ch. 298 (less 1st 98 words), 60 Stat. 236. |
| | 34 U.S.C. 1076b (last sentence). | July 31, 1947, ch. 420, § 3 (last sentence), 61 Stat. 760; Aug. 30, 1954, ch. 1076, § 1(21), 68 Stat. 968. |
| 7081(b) ..... | 34 U.S.C. 1073c. | Jan. 16, 1936, ch. 3, § 4, 49 Stat. 1092. |

[1] So in original. Does not conform to section catchline.

HISTORICAL AND REVISION NOTES—CONTINUED

1956 ACT

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| | 34 U.S.C. 1073c–1 (2d proviso). | Jan. 16, 1936, ch. 3, § 4A (2d proviso); added Nov. 28, 1943, ch. 331, § 1, 57 Stat. 594. |

Section 4 of the Act of January 16, 1936, ch. 3, 49 Stat. 1092, provided that persons who were then members of the teaching staff should have the right to participate in benefits under the Act if they requested such participation within 60 days. Members who were then under the civil-service retirement system were required to choose whether they would remain under it or would participate in the system established by the 1936 Act. They could not come under both. The section also authorized the Secretary of the Navy to supplement the retired income of members who elected to come under the 1936 Act and whose age in 1936 was such that they could not purchase adequate annuities before retiring. The provisions whereby members could elect to participate were temporary and are executed. The provisions relating to retired income are superseded by § 4A, added by the Act of November 28, 1943, ch. 331, 57 Stat. 594. The only remaining effect of § 4 and the second proviso of § 4A is to exclude from the benefits and requirements of the 1936 Act persons who were members of the teaching staff in 1936 and did not elect to participate.

1958 ACT

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 7081(c) ..... | [No source]. | [No source]. |

Subsection (c) is added to reflect the effect on chapter 607 of this title of the Act of July 31, 1956, ch. 804, § 402(a) (70 Stat. 760) which brought the civilian faculties of the Naval Academy and Naval Postgraduate School under the Civil Service Retirement Act effective October 1, 1956, and provided that on and after that date the Act of January 16, 1936, ch. 3 (49 Stat. 1092) would no longer apply to civilians employed at those schools on or after that date.

REFERENCES IN TEXT

Act of January 16, 1936, ch. 3 (49 Stat. 1092), referred to in subsec. (b), was classified to sections 1073 to 1073f of former Title 34, Navy, and was repealed by act Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641. See section 7081 et seq. of this title.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–375 substituted ''Provost and Academic Dean'' for ''Academic Dean''.

1989—Subsec. (a). Pub. L. 101–189 inserted '', the term'' after ''In this chapter''.

1958—Subsec. (c). Pub. L. 85–861 added subsec. (c).

## § 7082. Deferred annuity policy required

Each civilian member, as a part of his contract of employment, shall carry, during his employment, a deferred annuity policy, having no cash surrender or loan provision, in a joint-stock life insurance corporation that is incorporated under the laws of a State and has a charter restriction that its business must be conducted without profit to its stockholders.

(Aug. 10, 1956, ch. 1041, 70A Stat. 439.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 7082 ..... | 34 U.S.C. 1073. | Jan. 16, 1936, ch. 3, § 1, 49 Stat. 1092. |

The words ''whose employment commences from and after the date of approval of this act'' are omitted as surplusage. Under § 4 of the Act, members already employed when the Act was approved were given 60 days in which to decide whether or not they wished to participate in the benefits provided by the Act. Those who chose not to participate are excluded from the application of this chapter by § 7081 of this title.

## § 7083. Annuity premium to be paid by monthly installments; government reimbursement

Each civilian member shall make a monthly allotment in an amount equal to 10 percent of his monthly basic salary toward the purchase of his deferred annuity policy. For each month the allotment is in force, the pay account of the civilian member shall be credited monthly from appropriations made for this purpose with an additional amount equal to 5 percent of his monthly basic salary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 439; Pub. L. 89–718, § 39, Nov. 2, 1966, 80 Stat. 1120.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 7083 ..... | 34 U.S.C. 1073a. | Jan. 16, 1936, ch. 3, § 2, 49 Stat. 1092. |

The words ''Chief, Field Branch, Bureau of Supplies and Accounts'' are substituted for the words ''Navy Allotment Office, Navy Department, Washington, District of Columbia'', to designate the agency through which allotments are now made.

AMENDMENTS

1966—Pub. L. 89–718 removed requirement that the 10 percent monthly allotment be made through the Chief, Field Branch, Bureau of Supplies and Accounts.

## § 7084. Age of retirement

A civilian member may be retired at any time after his sixty-fifth birthday, and shall be retired by June 30 following that birthday. However, in any special case the Secretary of the Navy may defer the retirement of a member until a date not later than the member's seventieth birthday.

(Aug. 10, 1956, ch. 1041, 70A Stat. 439.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 7084 ..... | 34 U.S.C. 1073b. | Jan. 16, 1936, ch. 3, § 3, 49 Stat. 1092. |

The words ''individual and'' are omitted as surplusage.

## § 7085. Computation of life annuity

Each civilian member who retires under section 7084 of this title is entitled to a life annuity computed by multiplying his average annual compensation during any five consecutive years of allowable service, at his option, by his number of years of service, not exceeding 35, and dividing the product by 70. The retirement annuity payable to a retired civilian member under a policy required by section 7082 of this title is counted as part of the retirement annuity provided in this section. Any difference between the amount received by the retired civilian member

under his annuity policy and the total annual amount to which he is entitled under this section shall be paid to him by the Secretary of the Navy from appropriations made for this purpose.

(Aug. 10, 1956, ch. 1041, 70A Stat. 439.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7085 ..... | 34 U.S.C. 1073c–1 (less 2d proviso). | Jan. 16, 1936, ch. 3, § 4A (less 2d proviso); added Nov. 28, 1943, ch. 331, § 1, 57 Stat. 594. |

The words ''terminable on his death at the rate of the following total annual amount'' are omitted as surplusage, since they are covered by the words ''life annuity''.

The words ''basic salary, pay, or'' are omitted as surplusage, since they are covered by the word ''compensation''. The first proviso is omitted as unnecessary, since all existing rights and benefits of persons affected by this title are protected by a general saving provision.

INCREASE IN ANNUITIES OF CIVILIAN MEMBERS WHO RETIRED BEFORE APRIL 1, 1948

Section 30 of Pub. L. 85–861, Sept. 2, 1958, 72 Stat. 1563, provided that:

''(a) A retired civilian member of the teaching staff of the United States Naval Academy or the United States Naval Postgraduate School who retired before April 1, 1948, is entitled to be paid, out of applicable current appropriations, $300 a year in addition to the annuity to which he is entitled under section 7085 of title 10 [this section].

''(b) A retired civilian member whose annuity, when increased by $300 under subsection (a), is less than $1,860 is entitled to be paid an additional $300 a year out of applicable current appropriations.

''(c) Additions to the annuities of retired civilian members under subsection (b) do not increase the annuities payable to the survivors of those members.''

INCREASE OF ANNUITIES—1957

Pub. L. 85–40, May 31, 1957, 71 Stat. 42, provided: ''That the annuities, payable under chapter 607 of title 10, United States Code [this chapter], to civilian members of the teaching staff of the United States Naval Academy or the United States Naval Postgraduate School are increased as follows: That portion of an annuity which is not in excess of $1,500 is increased by 12 per centum, and that portion of an annuity which is in excess of $1,500 is increased by 8 per centum. These increases shall not exceed the sum necessary to increase the annuity to $4,104, and are in addition to the increases authorized by Public Law 371, Eighty-fourth Congress. The monthly installments of each annuity shall be fixed at the nearest dollar.

''SEC. 2. The increases provided by section 1, when added to the annuities of retired civilian members of the teaching staff of the United States Naval Academy or the United States Naval Postgraduate School, do not increase the annuities of their survivors. The annuity of any such survivor, however, who is entitled to or becomes entitled to an annuity under chapter 607 of title 10, United States Code [this chapter], shall be increased in accordance with the following schedule:

| *''If annuity commences between—* | *Portion of annuity not in excess of $1,500 shall be increased by—* | *Portion of annuity in excess of $1,500 shall be increased by—* |
|---|---|---|
| | *per centum* | *per centum* |
| Jan. 16, 1936, and June 30, 1955 ..... | 12 | 8 |
| July 1, 1955, and Dec. 31, 1955 ..... | 10 | 7 |
| Jan. 1, 1956, and June 30, 1956 ..... | 8 | 6 |
| July 1, 1956, and Dec. 31, 1956 ..... | 6 | 4 |
| Jan. 1, 1957, and June 30, 1957 ..... | 4 | 2 |
| July 1, 1957, and Dec. 31, 1957 ..... | 2 | 1 |

''SEC. 3. Any provision of law, enacted after the effective date of this Act [May 31, 1957], which increases the annuities of retired employees and their survivors who are entitled to annuities under the Civil Service Retirement Act of May 29, 1930, as amended (5 U.S.C. 691 et seq.) [now covered by section 8331 et seq. 30 of Title 5], shall be applicable in like manner and to the same extent to civilian members of the teaching staff of the United States Naval Academy and of the United States Naval Postgraduate School and their survivors who are entitled to annuities under chapter 607 of title 10, United States Code [this chapter].''

## § 7086. Physical disability retirement

(a) Each civilian member who has served not less than five years, and who, before reaching the age of 65, becomes totally disabled for useful and efficient service in his position, by reason of disease or injury not due to his own vicious habits, intemperance, or willful misconduct shall, upon his application or upon the request of the Secretary of the Navy, be retired with a life annuity computed under section 7085 of this title.

(b) The amount that the Secretary shall pay annually under this section is the difference between the total amount to which the retired member is entitled under subsection (a) and the immediate life annuity to which he is entitled at the time of his disability retirement under the annuity policy required by section 7082 of this title.

(c) Each civilian member retired under this section, unless the disability for which he was retired is permanent in character, shall be examined by a board of medical officers designated by the Superintendent of the Naval Academy or of the Postgraduate School, as appropriate, one year after his retirement and annually thereafter, until he becomes 65 years of age.

(d) Payments by the Secretary under this section shall be terminated if the retired civilian member is found to be sufficiently recovered for useful and efficient service in his former position and is offered reemployment in that position by the Superintendent.

(e) If a civilian member retired under this section is later reemployed by the United States, the payments by the Secretary shall be terminated.

(f) Each civilian member retired under this section who is reemployed as a civilian member of the teaching staff of the Naval Academy or the Naval Postgraduate School shall, upon his later retirement, be paid annually by the Secretary the difference between the total annual amount computed under section 7085 of this title and the immediate life annuity which the total premiums paid on his annuity contracts would buy.

(g) No person may receive payments from the Secretary of the Navy under this chapter and, for the same period of time, compensation under chapter 81 of title 5.

(Aug. 10, 1956, ch. 1041, 70A Stat. 439; Pub. L. 89–718, § 40, Nov. 2, 1966, 80 Stat. 1120.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7086 ..... | 34 U.S.C. 1073c–2. | Jan. 16, 1936, ch. 3, § 4B; added Aug. 2, 1946, ch. 740, 60 Stat. 804. |

In subsection (a) the words ''reaching the age of 65'' are substituted for the words ''becoming eligible for retirement under the conditions defined in the preceding sections hereof'', since a civilian member's 65th birthday is the date on which he becomes eligible for retirement under this chapter.

In subsection (c) the words ''or the Postgraduate School, as appropriate'' are inserted because the Postgraduate School and the Naval Academy are now two separate institutions.

In subsection (f) the words ''or the Naval Postgraduate School'' are inserted for the same reason.

In subsection (g) the words ''Federal Employees Compensation Act of September 7, 1916, as amended (5 U.S.C. 751 et seq.),'' are substituted for the words ''Act of Sept. 7, 1916, entitled 'An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes' ''. Authority for referring to this Act as the Federal Employees Compensation Act is contained in the Federal Employees Compensation Act Amendments of 1949, 63 Stat. 854. The words ''but this provision shall not bar the right of any claimant to the greater benefit conferred by either Act for any part of the same period'' are omitted as unnecessary.

AMENDMENTS

1966—Subsec. (g). Pub. L. 89–718 substituted ''chapter 81 of title 5'' for ''sections 751–756, 757–791, and 793 of title 5''.

CHANGE OF NAME

References to Superintendent of the Naval Postgraduate School deemed to refer to President of the Naval Postgraduate School, see section 557(a)(1), (2) of Pub. L. 108–375, set out as a note under section 7042 of this title.

### § 7087. Election of annuity for self and beneficiary

(a) At the time of his retirement, a civilian member retiring under this chapter may elect to receive instead of the amount payable annually by the Secretary of the Navy under section 7085 or 7086 of this title a reduced annuity for his life and an annuity payable after his death to his beneficiary in either—

(1) an amount equal to his reduced annuity; or

(2) an amount equal to 50 percent of his reduced annuity.

The annuities payable to principal and beneficiary, under either election, shall be in amounts that have, on the date of the retirement of the civilian member, a combined actuarial value equal to the actuarial value of the annuity payable by the Secretary under section 7085 or 7086 of this title, as determined under actuarial tables prepared by the Director of the Office of Personnel Management.

(b) If the civilian member elects to take a reduced annuity under this section, he shall, at the time of his retirement, designate the beneficiary in writing and file the designation with the Secretary.

(c) The annuity payable under this section to the beneficiary of a deceased civilian member shall be terminated upon the death of the beneficiary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 440; Pub. L. 97–295, § 1(45), Oct. 12, 1982, 96 Stat. 1298.)

HISTORICAL AND REVISION NOTES

1956 ACT

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7087 ..... | 34 U.S.C. 1073c–3. | Jan. 16, 1936, ch. 3, § 4C; added Aug. 2, 1946, ch. 740, 60 Stat. 805. |

In subsection (a) the words ''under actuarial tables prepared by the Civil Service Commission'' are substituted for the words ''under the provisions of the Civil Service Retirement Act'' because that Act, as amended in 1948, no longer provides for the computation of actuarial values. The Secretary of the Navy, in administering the provisions of law codified in this section, uses tables prepared by the Civil Service Commission prior to the 1948 amendment.

1982 ACT

This amends 10:7087(a) to reflect the transfer of functions from the Civil Service Commission to the Director of the Office of Personnel Management under section 102 of Reorganization Plan No. 2 of 1978 (eff. Jan. 1, 1979, 92 Stat. 3783).

AMENDMENTS

1982—Subsec. (a). Pub. L. 97–295 substituted ''Director of the Office of Personnel Management'' for ''Civil Service Commission''.

### § 7088. Regulations

The Secretary of the Navy shall prescribe regulations for the administration of this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 441.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7088 ..... | 34 U.S.C. 1073e. | Jan. 16, 1936, ch. 3, § 6, 49 Stat. 1093. |

The appropriations authorization in the second sentence of the source is omitted as unnecessary.

## CHAPTER 609—PROFESSIONAL MILITARY EDUCATION SCHOOLS

Sec.
7101. Naval War College: master of arts in national security and strategic studies.
7102. Marine Corps University: masters degrees; board of advisors.
7103. Naval War College: acceptance of grants for faculty research for scientific, literary, and educational purposes.
7104. Marine Corps University: acceptance of grants for faculty research for scientific, literary, and educational purposes.

AMENDMENTS

2006—Pub. L. 109–163, div. A, title V, § 522(d)(2), Jan. 6, 2006, 119 Stat. 3243, added items 7103 and 7104.

2001—Pub. L. 107–107, div. A, title V, § 532(b)(3)(B), Dec. 28, 2001, 115 Stat. 1105, substituted ''masters degrees; board of advisors'' for ''master of military studies'' in item 7102.

1994—Pub. L. 103–337, div. A, title IX, § 911(a)(2), Oct. 5, 1994, 108 Stat. 2828, added item 7102.

### § 7101. Naval War College: master of arts in national security and strategic studies

(a) AUTHORITY.—Upon the recommendation of the faculty of the Naval War College, the President of the college may confer the degree of master of arts in national security and strategic studies upon graduates of the college who fulfill the requirements for the degree.

(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Navy.

(c) NAVAL WAR COLLEGE DEFINED.—In this section, the term ''Naval War College'' means the College of Naval Warfare and the College of Naval Command and Staff.

(Added Pub. L. 101–510, div. A, title IX, § 912(a), Nov. 5, 1990, 104 Stat. 1626.)

### § 7102. Marine Corps University: masters degrees; board of advisors

(a) MASTER OF MILITARY STUDIES.—Upon the recommendation of the Director and faculty of the Command and Staff College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of military studies upon graduates of the Command and Staff College who fulfill the requirements for that degree.

(b) MASTER OF STRATEGIC STUDIES.—Upon the recommendation of the Director and faculty of the Marine Corps War College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of strategic studies upon graduates of the Marine Corps War College who fulfill the requirements for that degree.

(c) MASTER OF OPERATIONAL STUDIES.—Upon the recommendation of the Director and faculty of the Command and Staff College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of operational studies upon graduates of the Command and Staff College's School of Advanced Warfighting who fulfill the requirements for that degree.

(d) REGULATIONS.—The authority provided by subsections (a), (b), and (c) shall be exercised under regulations prescribed by the Secretary of the Navy.

(e) BOARD OF ADVISORS.—The Secretary of the Navy shall establish a board of advisors for the Marine Corps University. The Secretary shall ensure that the board is established so as to meet all requirements of the appropriate regional accrediting association.

(Added Pub. L. 103–337, div. A, title IX, § 911(a)(1), Oct. 5, 1994, 108 Stat. 2828; amended Pub. L. 107–107, div. A, title V, § 532(a)–(b)(3)(A), (c)(1), Dec. 28, 2001, 115 Stat. 1104, 1105; Pub. L. 108–136, div. A, title V, § 531(a), Nov. 24, 2003, 117 Stat. 1472; Pub. L. 108–375, div. A, title X, § 1084(d)(31), Oct. 28, 2004, 118 Stat. 2063.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–375, § 1084(d)(31)(A), substituted ''MASTER OF MILITARY STUDIES'' for ''AUTHORITY'' in heading.

Subsec. (b). Pub. L. 108–375, § 1084(d)(31)(B), substituted ''MASTER OF STRATEGIC STUDIES'' for ''MARINE CORPS WAR COLLEGE'' in heading.

Subsec. (c). Pub. L. 108–375, § 1084(d)(31)(C), substituted ''MASTER OF OPERATIONAL STUDIES'' for ''COMMAND AND STAFF COLLEGE OF THE MARINE CORPS UNIVERSITY'' in heading.

Subsec. (d). Pub. L. 108–375, § 1084(d)(31)(D), substituted ''subsections (a), (b), and (c)'' for ''subsections (a) and (b)''.

2003—Subsecs. (c) to (e). Pub. L. 108–136 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

2001—Pub. L. 107–107, § 532(b)(3)(A), substituted ''masters degrees; board of advisors'' for ''master of military studies'' in section catchline.

Subsec. (a). Pub. L. 107–107, § 532(b)(1), substituted ''upon graduates of the Command and Staff College who fulfill the requirements for that degree'' for ''upon graduates of the college who fulfill the requirements for the degree''.

Subsec. (b). Pub. L. 107–107, § 532(a)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 107–107, § 532(b)(2), substituted ''subsections (a) and (b)'' for ''subsection (a)''.

Pub. L. 107–107, § 532(a)(1), redesignated subsec. (b) as (c).

Subsec. (d). Pub. L. 107–107, § 532(c)(1), added subsec. (d).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title V, § 531(b), Nov. 24, 2003, 117 Stat. 1472, provided that: ''The authority to confer the degree of master of operational studies under section 7102(c) of title 10, United States Code (as added by subsection (a)) may not be exercised until the Secretary of Education determines, and certifies to the President of the Marine Corps University, that the requirements established by the Command and General Staff College of the Marine Corps University for that degree are in accordance with generally applicable requirements for a degree of master of arts.'' [Approval granted by Secretary of Education on Jan. 10, 2003, for Marine Corps University to award the Master's degree in operational studies for successful completion of the School of Advanced Warfighting program.]

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title V, § 532(d), Dec. 28, 2001, 115 Stat. 1105, provided that: ''The authority to confer the degree of master of strategic studies under section 7102(b) of title 10, United States Code (as added by subsection (a)) may not be exercised until the Secretary of Education determines, and certifies to the President of the Marine Corps University, that the requirements established by the Marine Corps War College of the Marine Corps University for that degree are in accordance with generally applicable requirements for a degree of master of arts. Upon receipt of such a certification, the President of the University shall promptly transmit a copy of the certification to the Committee on Armed Services of the Senate and Committee on Armed Services of the House of Representatives.'' [Approval granted by Secretary of Education on Aug. 8, 2001, for Marine Corps University to award the Master's degree for successful completion of the Marine Corps War College program in strategic studies.]

EFFECTIVE DATE

Section 911(b) of Pub. L. 103–337 provided that: ''The authority provided by section 7102(a) of title 10, United States Code, as added by subsection (a), shall become effective on the date on which the Secretary of Education determines that the requirements established by the Command and Staff College of the Marine Corps University for the degree of master of military studies are in accordance with generally applicable requirements for a degree of master of arts.'' [Approval granted by Secretary of Education on Mar. 22, 1995, for Marine Corps University to award the Master of Military Studies degree through its Command and Staff College.]

BOARD OF ADVISORS FOR MARINE CORPS UNIVERSITY

Pub. L. 103–337,div. A, title IX, §912, Oct. 5, 1994, 108 Stat. 2828, which authorized the Secretary of the Navy to establish a board of advisors for the Marine Corps University and to ensure that the board met all requirements of the appropriate regional accrediting association, was repealed and restated in subsec. (d) of this section by Pub. L. 107–107, div. A, title V, §532(c), Dec. 28, 2001, 115 Stat. 1105.

### §7103. Naval War College: acceptance of grants for faculty research for scientific, literary, and educational purposes

(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Navy may authorize the President of the Naval War College to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the College for a scientific, literary, or educational purpose.

(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The President of the Naval War College shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Naval War College may be used to pay expenses incurred by the College in applying for, and otherwise pursuing, the award of qualifying research grants.

(f) REGULATIONS.—The Secretary shall prescribe regulations for the administration of this section.

(Added Pub. L. 109–163, div. A, title V, §522(d)(1), Jan. 6, 2006, 119 Stat. 3242.)

### §7104. Marine Corps University: acceptance of grants for faculty research for scientific, literary, and educational purposes

(a) ACCEPTANCE OF RESEARCH GRANTS.—The Secretary of the Navy may authorize the President of the Marine Corps University to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of one of the institutions comprising the University for a scientific, literary, or educational purpose.

(b) QUALIFYING GRANTS.—A qualifying research grant under this section is a grant that is awarded on a competitive basis by an entity referred to in subsection (c) for a research project with a scientific, literary, or educational purpose.

(c) ENTITIES FROM WHICH GRANTS MAY BE ACCEPTED.—A grant may be accepted under this section only from a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

(d) ADMINISTRATION OF GRANT FUNDS.—The Secretary shall establish an account for administering funds received as research grants under this section. The President of the Marine Corps University shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.

(e) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Marine Corps University may be used to pay expenses incurred by the University in applying for, and otherwise pursuing, the award of qualifying research grants.

(f) REGULATIONS.—The Secretary shall prescribe regulations for the administration of this section.

(Added Pub. L. 109–163, div. A, title V, §522(d)(1), Jan. 6, 2006, 119 Stat. 3242.)

## PART IV—GENERAL ADMINISTRATION


| Chap. | | Sec. |
|---|---|---|
| 631. | Secretary of the Navy: Miscellaneous Powers and Duties | 7201 |
| 633. | Naval Vessels | 7291 |
| [635. | Repealed.] | |
| 637. | Salvage Facilities | 7361 |
| 639. | United States Naval Observatory | 7395 |
| 641. | Naval Petroleum Reserves | 7420 |
| 643. | Civilian Employees | 7471 |
| 645. | Procurement of Supplies and Services | 7521 |
| 647. | Disposal of Obsolete or Surplus Material | 7541 |
| 649. | Quarters, Utilities, and Services | 7571 |
| 651. | Ships' Stores and Commissary Stores | 7601 |
| 653. | Claims | 7621 |
| 655. | Prize | 7651 |
| 657. | Stay of Judicial Proceedings | 7721 |
| 659. | Naval Militia | 7851 |
| 661. | Accountability and Responsibility | 7861 |
| 663. | Names and Insignia | 7881 |
| 665. | National Oceanographic Partnership Program | 7901 |


AMENDMENTS

2000—Pub. L. 106–398, §1 [[div. A], title X, §1085(b)(3)(B)], Oct. 30, 2000, 114 Stat. 1654, 1654A–289, struck out ''Related'' after ''Quarters, Utilities, and'' in item for chapter 649.

1996—Pub. L. 104–201, div. A, title II, §282(a)(2), Sept. 23, 1996, 110 Stat. 2473, added item for chapter 665.

1993—Pub. L. 103–160, div. A, title VIII, §828(b)(3), Nov. 30, 1993, 107 Stat. 1714, struck out item for chapter 635 ''Naval Aircraft''.

1984—Pub. L. 98–525, title XV, §1532(a)(2), Oct. 19, 1984, 98 Stat. 2631, added item for chapter 663.

1982—Pub. L. 97–295, §1(50)(H), Oct. 12, 1982, 96 Stat. 1300, struck out ''Naval Oceanographic Office and'' after ''United States'' in item for chapter 639.

Pub. L. 97–295, §1(51)(B), Oct. 12, 1982, 96 Stat. 1300, added item for chapter 661.

1980—Pub. L. 96–513, title V, §513(1), Dec. 12, 1980, 94 Stat. 2931, substituted ''7420'' for ''7421'' in item for chapter 641.

1962—Pub. L. 87–533, §2, July 10, 1962, 76 Stat. 155, substituted ''United States Naval Oceanographic'' for ''Hydrographic'' in item for chapter 639.

## CHAPTER 631—SECRETARY OF THE NAVY: MISCELLANEOUS POWERS AND DUTIES

Sec.
[7201 to 7203. Repealed.]
7204. Schools near naval activities: financial aid.
7205. Promotion of health and prevention of accidents.
[7206. Repealed.]
7207. Administration of liberated and occupied areas.
[7208 to 7210. Repealed.]
7211. Attendance at meetings of technical, professional, or scientific organizations.
7212. Employment of outside architects and engineers.
[7213. Repealed.]
7214. Apprehension of deserters and prisoners; operation of shore patrols.
[7215. Repealed.]
7216. Collection, preservation, and display of captured flags.
[7217, 7218. Repealed.]
7219. Leases of waterfront property from States or municipalities.
7220. Gifts for welfare of enlisted members.
7221. Acceptance and care of gifts to vessels.
7222. Naval Historical Center Fund: references to Fund.
7223. Acquisition of land for radio stations and for other purposes.
7224. Transportation on naval vessels during wartime.
7225. Navy Reserve flag.
7226. Navy Reserve yacht pennant.
7227. Foreign naval vessels and aircraft: supplies and services.
7228. Merchant vessels: supplies.
7229. Purchase of fuel.
[7230. Repealed.]
7231. Accounting for expenditures for obtaining information.
7233. Auxiliary vessels: extended lease authority.
7234. Submarine safety programs: participation of NATO naval personnel.

AMENDMENTS

2006—Pub. L. 109–163, div. A, title V, §515(b)(4)(D), Jan. 6, 2006, 119 Stat. 3235, substituted ''Navy Reserve'' for 'Naval Reserve'' in items 7225 and 7226.

2004—Pub. L. 108–375, div. A, title XII, §1223(b), Oct. 28, 2004, 118 Stat. 2090, added item 7234.

2000—Pub. L. 106–398, §1 [[div. A], title IX, §942(e)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–243, substituted ''Naval Historical Center Fund: references to Fund'' for ''Naval Historical Center Fund'' in item 7222.

1999—Pub. L. 106–65, div. A, title X, §1014(a)(2), Oct. 5, 1999, 113 Stat. 742, added item 7233.

1996—Pub. L. 104–201, div. A, title X, §1073(b)(2)(B), Sept. 23, 1996, 110 Stat. 2657, substituted ''Naval Historical Center Fund'' for ''Office of Naval Records and History gift fund'' in item 7222.

1994—Pub. L. 103–355, title III, §3025(b), Oct. 13, 1994, 108 Stat. 3334, struck out item 7203 ''Scientific investigation and research''.

1993—Pub. L. 103–160, div. A, title VIII, §828(a)(6), Nov. 30, 1993, 107 Stat. 1713, struck out items 7201 ''Guided missiles: research and development, procurement, and construction'', 7210 ''Purchase of patents, patent applications, and licenses'', 7213 ''Relief of contractors and their employees from losses by enemy action'', and 7230 ''Sale of degaussing equipment''.

1990—Pub. L. 101–510, div. A, title XIII, §1331(8), Nov. 5, 1990, 104 Stat. 1673, struck out item 7217 ''Annual report to Congress: appropriations''.

1988—Pub. L. 100–370, §1(e)(3)(B), July 19, 1988, 102 Stat. 845, struck out item 7209 ''Rewards for recovery of missing naval property''.

1984—Pub. L. 98–525, title XIV, §1401(d)(3)(B), (j)(3)(B), Oct. 19, 1984, 98 Stat. 2616, 2620, struck out ''; transportation of dependents'' at end of item 7204 and struck out item 7208 ''Latin American cooperation''.

1982—Pub. L. 97–258, §2(b)(11)(A), Sept. 13, 1982, 96 Stat. 1057, added item 7231.

1975—Pub. L. 94–106, title VIII, §804(b), Oct. 7, 1975, 89 Stat. 538, struck out item 7202 ''Emergency and extraordinary expenses''.

1968—Pub. L. 90–377, §4, July 5, 1968, 82 Stat. 288, struck out item 7215 ''Naval prisons, prison farms, and prisoners''.

1966—Pub. L. 89–529, §1(4), Aug. 11, 1966, 80 Stat. 339, struck out item 7218 ''Recognition for accomplishments, special service, and good conduct''.

1959—Pub. L. 86–55, §2, June 23, 1959, 73 Stat. 89, inserted ''and aircraft'' in item 7227.

1958—Pub. L. 85–861, §1(150), Sept. 2, 1958, 72 Stat. 1513, struck out item 7206 ''Minor construction and extension of structures''.

1957—Pub. L. 85–43, §1(2), May 31, 1957, 71 Stat. 45, added item 7230.

### [§ 7201. Repealed. Pub. L. 103–160, div. A, title VIII, § 824(a)(1), Nov. 30, 1993, 107 Stat. 1707]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 442, authorized Secretary of the Navy to conduct research and development relating to guided missiles and to procure and construct guided missiles.

### [§ 7202. Repealed. Pub. L. 94–106, title VIII, § 804(b), Oct. 7, 1975, 89 Stat. 538]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 442, related to authority of Secretary of the Navy to provide for emergency and extraordinary expenses and to delegation of such authority to other persons in the Department of the Navy. See section 127 of this title.

### [§ 7203. Repealed. Pub. L. 103–355, title III, § 3025(a), Oct. 13, 1994, 108 Stat. 3334]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 442; Sept. 2, 1958, Pub. L. 85–861, §33(a)(34), 72 Stat. 1566, authorized Secretary of the Navy to make expenditures for scientific investigations and research from any naval appropriation available for those purposes and to delegate this authority within Navy.

### § 7204. Schools near naval activities: financial aid

(a) The Secretary of the Navy may contribute, out of funds specifically appropriated for the purpose, to the support of schools in any locality where a naval activity is located if he finds that the schools available in the locality are inadequate for the welfare of the dependents of—

(1) members of the naval service;

(2) civilian officers and employees of the Department of the Navy;

(3) members of the Coast Guard when it is operating as a service in the Navy; and

(4) members of the National Oceanic and Atmospheric Administration serving with the Navy;

who are stationed at the activity.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 442; Pub. L. 89–718, §8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title V, §513(24), Dec. 12, 1980, 94 Stat. 2932; Pub. L. 98–525, title XIV, §1401(j)(3)(A), (B), Oct. 19, 1984, 98 Stat. 2620; Pub. L. 99–145, title XIII, §1303(a)(23), Nov. 8, 1985, 99 Stat. 739.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7204 ..... | 5 U.S.C. 421d. | Aug. 2, 1946, ch. 756, § 13, 60 Stat. 854. |
| | 5 U.S.C. 421g(b), (c). | Aug. 2, 1946, ch. 756, § 40(b), (c), 60 Stat. 858. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, § 39, 60 Stat. 858. |

In subsection (b) the words ''except the authority to prescribe regulations'' are omitted, since 5 U.S.C. 421d contains no authority for the Secretary of the Navy to prescribe regulations for the administration of that section.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–145 ran in ''contribute, out of'' after ''Secretary of the Navy may'', and realigned margins of cls. (1) to (4) and provision following cl. (4).

1984—Pub. L. 98–525, § 1401(j)(3)(B), struck out ''; transportation of dependents'' in section catchline.

Subsec. (a). Pub. L. 98–525, § 1401(j)(3)(A), substituted ''The Secretary of the Navy may'' for ''The Secretary of the Navy may—'', struck out ''(1)'' before ''contribute out of'', thereby eliminating paragraph designation, redesignated cls. (A) to (D) as (1) to (4), respectively, substituted ''the activity.'' for ''the activity; and'', and struck out par. (2), which provided for transportation between the schools and the activity when the schools are not accessible by regular means of transportation.

1980—Subsec. (a)(1)(D). Pub. L. 96–513 substituted ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Services Administration''.

1966—Subsec. (a)(1)(D). Pub. L. 89–718 substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–525 effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as an Effective Date note under section 520b of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 89–718, § 8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, § 6(b), Oct. 12, 1982, 96 Stat. 1314.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## § 7205. Promotion of health and prevention of accidents

(a) The Secretary of the Navy may make such expenditures as he considers appropriate to prevent accidents and to promote the safety and occupational health of—

(1) members of the naval service on active duty;

(2) civilian officers and employees of the Department of the Navy;

(3) members of the Coast Guard when it is operating as a service in the Navy; and

(4) members of the National Oceanic and Atmospheric Administration serving with the Navy.

The expenditures may include payments for clothing, equipment, and other materials necessary for the purposes of this section. Any appropriation available for the activities in which the personnel are engaged shall be available for these purposes.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 443; Pub. L. 89–718, § 8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title V, § 513(24), Dec. 12, 1980, 94 Stat. 2932.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7205 ..... | 5 U.S.C. 421e(b). | Aug. 2, 1946, ch. 756, § 24(b), 60 Stat. 856. |
| | 5 U.S.C. 421g(b), (c). | Aug. 2, 1946, ch. 756, § 40(b), (c), 60 Stat. 858. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, § 39, 60 Stat. 858. |

In subsection (a) the word ''maintenance'' is omitted as surplusage.

In subsection (b) the words ''except the authority to prescribe regulations'' are omitted, since 5 U.S.C. 421e(b) contains no authority for the Secretary of the Navy to prescribe regulations for the administration of that section.

AMENDMENTS

1980—Subsec. (a)(4). Pub. L. 96–513 substituted ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Services Administration''.

1966—Subsec. (a)(4). Pub. L. 89–718 substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 89–718, § 8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, § 6(b), Oct. 12, 1982, 96 Stat. 1314.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## [§ 7206. Repealed. Pub. L. 85–861, § 36B(22), Sept. 2, 1958, 72 Stat. 1571]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 443, related to minor construction and extension of structures.

### § 7207. Administration of liberated and occupied areas

(a) The Secretary of the Navy may, out of any appropriation made for the purpose, provide for the administration of liberated and occupied areas by the Department of the Navy.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 443.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7207 ..... | 5 U.S.C. 421f (as applicable to administration of liberated and occupied areas). | Aug. 2, 1946, ch. 756, § 38 (as applicable to administration of liberated and occupied areas), 60 Stat. 858. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, § 39, 60 Stat. 858. |

In subsection (b) the words ''except the authority to prescribe regulations'' are omitted, since 5 U.S.C. 421f contains no authority for the Secretary of the Navy to prescribe regulations for the administration of that section.

### [§ 7208. Repealed. Pub. L. 98–525, title XIV, § 1401(d)(3)(A), Oct. 19, 1984, 98 Stat. 2616]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 443, authorized the Secretary of the Navy to pay the travel, subsistence, special compensation, and other expenses of officers and students of Latin American countries that the Secretary considers necessary for Latin American cooperation. See section 1050 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1985, see section 1404 of Pub. L. 98–525, set out as an Effective Date note under section 520b of this title.

### [§ 7209. Repealed. Pub. L. 100–370, § 1(e)(3)(A), July 19, 1988, 102 Stat. 845]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 444, related to rewards for recovery of missing naval property. See section 2252 of this title.

### [§ 7210. Repealed. Pub. L. 103–160, div. A, title VIII, § 824(a)(2), Nov. 30, 1993, 107 Stat. 1707]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 444, authorized Secretary of the Navy to purchase patents, patent applications, and licenses.

### § 7211. Attendance at meetings of technical, professional, or scientific organizations

(a) The Secretary of the Navy may authorize—

(1) members of the naval service on active duty;

(2) civilian officers and employees of the Department of the Navy;

(3) members of the Coast Guard when it is operating as a service in the Navy; and

(4) members of the National Oceanic and Atmospheric Administration serving with the Navy;

to attend meetings of technical, professional, scientific, and similar organizations, if the Secretary believes that their attendance will benefit the Department. The personnel may be reimbursed for their expenses at the rates prescribed by law.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 444; Pub. L. 89–718, § 8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title V, § 513(24), Dec. 12, 1980, 94 Stat. 2932.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7211 ..... | 5 U.S.C. 421c. | Aug. 2, 1946, ch. 756, § 1, 60 Stat. 853. |
| | 5 U.S.C. 421g(b), (c). | Aug. 2, 1946, ch. 756, § 40(b), (c), 60 Stat. 858. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, § 39, 60 Stat. 858. |

In subsection (b) the words ''except the authority to prescribe regulations'' are omitted, since 5 U.S.C. 421c contains no authority for the Secretary of the Navy to prescribe regulations for the administration of that section.

AMENDMENTS

1980—Subsec. (a)(4). Pub. L. 96–513 substituted ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Services Administration''.

1966—Subsec. (a)(4). Pub. L. 89–718 substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 89–718, § 8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, § 6(b), Oct. 12, 1982, 96 Stat. 1314.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### § 7212. Employment of outside architects and engineers

(a) Whenever the Secretary of the Navy believes that the existing facilities of the Department of the Navy are inadequate and he considers it advantageous to national defense, he may employ, by contract or otherwise, without advertising and without reference to sections 305, 3324, and 7204, chapter 51, and subchapters III, IV, and VI of chapter 53 of title 5, architectural or engineering corporations, or firms, or individual architects or engineers, to produce designs, plans, drawings, and specifications for the accomplishment of any naval public works or utilities project or for the construction of any vessel or aircraft, or part thereof.

(b) The fee for any service under this section may not exceed 6 percent of the estimated cost,

as determined by the Secretary, of the project to which the fee applies.

(Aug. 10, 1956, ch. 1041, 70A Stat. 444; Pub. L. 89–718, § 28, Nov. 2, 1966, 80 Stat. 1119; Pub. L. 95–454, title VII, § 703(c)(3), title VIII, § 801(a)(3)(I), Oct. 13, 1978, 92 Stat. 1217, 1222; Pub. L. 96–513, title V, § 513(25), Dec. 12, 1980, 94 Stat. 2932.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7212 ..... | 34 U.S.C. 556. | Apr. 25, 1939, ch. 87, § 3, 53 Stat. 591. |

In subsection (a) the word ''outside'' is omitted as surplusage and the words ''architects or engineers'' are inserted for clarity. The words ''without advertising'' are substituted for the reference to R.S. 3609, for brevity and clarity.

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–513 substituted ''and 7204, chapter 51, and subchapters III, IV, and VI of chapter 53 of'' for ''5101–5115, 5331–5338, 5341, 5342, and 7204 of title 5 and subchapter VI of chapter 53 of such''.

1978—Subsec. (a). Pub. L. 95–454, § 801(a)(3)(I), inserted reference to subchapter VI of chapter 53 of title 5.

Pub. L. 95–454, § 703(c)(3), substituted ''7204'' for ''7154''.

1966—Subsec. (a). Pub. L. 89–718 substituted ''sections 305, 3324, 5101–5115, 5331–5338, 5341, 5342, and 7154 of title 5'' for ''sections 1071–1153 of title 5''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 703(c)(3) of Pub. L. 95–454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95–454, set out as a note under section 1101 of Title 5, Government Organization and Employees.

Amendment by section 801(a)(3)(I) of Pub. L. 95–454 effective on first day of first applicable pay period beginning on or after 90th day after Oct. 13, 1978, see section 801(a)(4) of Pub. L. 95–454, set out as an Effective Date note under section 5361 of Title 5.

### [§ 7213. Repealed. Pub. L. 103–160, div. A, title VIII, § 824(a)(3), Nov. 30, 1993, 107 Stat. 1707]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 445, related to relief of contractors and their employees from losses by enemy action.

### § 7214. Apprehension of deserters and prisoners; operation of shore patrols

(a) The Secretary of the Navy may make such expenditures out of available appropriations as he considers necessary to—

(1) apprehend and deliver deserters, stragglers, and prisoners; and

(2) operate shore patrols.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 445.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7214 ..... | 34 U.S.C. 606. | Aug. 2, 1946, ch. 756, § 22, 60 Stat. 856. |
| | 5 U.S.C. 421g(d). | Aug. 2, 1946, ch. 756, § 40(d), 60 Stat. 858. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, § 39, 60 Stat. 858. |

In subsection (a) the word ''naval'' is omitted as surplusage.

In subsection (b) the words ''except the authority to prescribe regulations'' are omitted, since 34 U.S.C. 606 contains no authority for the Secretary of the Navy to prescribe regulations for the administration of that section.

### [§ 7215. Repealed. Pub. L. 90–377, § 6(2), July 5, 1968, 82 Stat. 288]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 445, authorized Secretary of the Navy to maintain and operate naval prisons and prison farms and to provide for subsistence, welfare, recreation, and education of naval prisoners.

### § 7216. Collection, preservation, and display of captured flags

The Secretary of the Navy shall collect all flags, standards, and colors taken by the Navy or the Marine Corps from enemies of the United States. These flags, standards, and colors shall be delivered to the President. Under his direction they shall be preserved and displayed in any public place he considers proper.

(Aug. 10, 1956, ch. 1041, 70A Stat. 445.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7216 ..... | 5 U.S.C. 418. | R.S. 428; R.S. 1554; R.S. 1555. |

The words ''from time to time cause to be'', ''transmitted to him'', and ''for the purpose of being'' are omitted as surplusage. The words ''Marine Corps'' are inserted for clarity, since the provision is interpreted as applicable thereto.

### [§ 7217. Repealed. Pub. L. 101–510, div. A, title XIII, § 1322(a)(15), Nov. 5, 1990, 104 Stat. 1672]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 445, related to reports to Congress concerning appropriations for Department of the Navy.

### [§ 7218. Repealed. Pub. L. 89–529, § 1(3), Aug. 11, 1966, 80 Stat. 339; Pub. L. 97–295, § 1(46), Oct. 12, 1982, 96 Stat. 1298]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 445, authorized Secretary of Navy to give special recognition to members of naval service for excellence, special service and good conduct in naval service. Subsec. (b) of this section was amended by Pub. L. 89–718, § 8(a), Nov. 2, 1966, 80 Stat. 1117, subsequent to repeal of this section by Pub. L. 89–529, and as so amended had provided that the Secretary had the same power with respect to members of Coast Guard when the Coast Guard was operating as a service in the Navy and to members of Environmental Science Services Administration serving with the Navy. Pub. L. 97–295, § 1(46), repealed subsec. (b). Pub. L. 89–718, § 8(a), was repealed by Pub. L. 97–295, § 6(b), Oct. 12, 1982, 96 Stat. 1314.

### § 7219. Leases of waterfront property from States or municipalities

In leasing waterfront property from a State or municipality, the Secretary of the Navy may provide in the lease, where it is required by state law or municipal charter, that, as part or all of the consideration, any improvements placed upon the property by the United States become the property of the lessor when the lease, including any renewal, ends.

(Aug. 10, 1956, ch. 1041, 70A Stat. 446.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7219 ..... | 34 U.S.C. 521. | July 1, 1918, ch. 114, 40 Stat. 705 (2d par.). |

### § 7220. Gifts for welfare of enlisted members

The Secretary of the Navy may accept gifts for use in providing recreation, amusement, and contentment for enlisted members of the naval service. The fund ''Ships' Stores Profits, Navy'' shall be credited with these gifts.

(Aug. 10, 1956, ch. 1041, 70A Stat. 446.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7220 ..... | 5 U.S.C. 419a. | June 30, 1932, ch. 318, 47 Stat. 424 (2d proviso). |

The words ''and contributions from organizations, individuals, or others'' are omitted as surplusage.

### § 7221. Acceptance and care of gifts to vessels

The Secretary of the Navy may accept and care for such gifts of silver, colors, books, or other articles of equipment or furniture as, in accordance with custom, are made to vessels of the Navy. Necessary expenses incident to the care of gifts that are accepted shall be paid from the appropriation for the maintenance and operation of vessels.

(Aug. 10, 1956, ch. 1041, 70A Stat. 446.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7221 ..... | 5 U.S.C. 419. | May 20, 1908, ch. 182, 35 Stat. 171. |

The words ''in the form'' and ''by States, municipalities, or otherwise'' are omitted as surplusage. The words ''the appropriation for the maintenance and operation of vessels'' are substituted for the words ''the appropriation 'Equipment of Vessels' '' to identify by a general description, rather than by a specific appropriation title, the appropriation authorized to be used.

### § 7222. Naval Historical Center Fund: references to Fund

Any reference in a law, regulation, document, paper, or other record of the United States to the Naval Historical Center Fund formerly maintained under this section shall be deemed to refer to the Department of the Navy General Gift Fund maintained under section 2601 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 446; Pub. L. 104–201, div. A, title X, § 1073(b)(1), (2)(A), Sept. 23, 1996, 110 Stat. 2657; Pub. L. 106–398, § 1 [[div. A], title IX, § 942(d)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–242.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7222 ..... | 5 U.S.C. 419b. | Mar. 4, 1937, ch. 26, 50 Stat. 25. |

In subsection (a) the word ''receive'' and the words ''from individuals or others'' and ''of the United States'' are omitted as surplusage. The title of the ''Office of Naval Records and Library, Navy Department'' is changed to ''Office of Naval Records and History'', in accordance with a directive of the Secretary of the Navy dated March 10, 1949.

Subsection (b) is rewritten for clarity and to conform to a similar statement appearing in 5 U.S.C. 150s.

AMENDMENTS

2000—Pub. L. 106–398 amended section catchline and text generally. Prior to amendment, section related to acceptance and administration of gifts, bequests, and loans for the benefit of the Naval Historical Center.

1996—Pub. L. 104–201, § 1073(b)(2)(A), substituted ''Naval Historical Center Fund'' for ''Office of Naval Records and History gift fund'' in section catchline.

Subsecs. (a), (c). Pub. L. 104–201, § 1073(b)(1), substituted ''Naval Historical Center'' for ''Office of Naval Records and History'' wherever appearing.

MERGER OF NAVAL HISTORICAL CENTER FUND INTO DEPARTMENT OF THE NAVY GENERAL GIFT FUND

Pub. L. 106–398, § 1 [[div. A], title IX, § 942(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–241, provided that:

''(1) The Secretary of the Navy shall transfer all amounts in the Naval Historical Center Fund maintained under section 7222 of title 10, United States Code, to the Department of the Navy General Gift Fund maintained under section 2601 of such title. Upon completing the transfer, the Secretary shall close the Naval Historical Center Fund.

''(2) Amounts transferred to the Department of the Navy General Gift Fund under this subsection shall be merged with other amounts in that Fund and shall be available for the purposes for which amounts in that Fund are available.''

### § 7223. Acquisition of land for radio stations and for other purposes

Land of the United States that is under the control of any department or agency of the United States may be mutually selected as a site for a naval radio station by the Secretary of the Navy and the head of the department or agency having control of the land. By direction of the President, land so selected may be transferred to and placed under the jurisdiction of the Department of the Navy for use as a naval radio station or for any other naval purpose.

(Aug. 10, 1956, ch. 1041, 70A Stat. 447.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7223 ..... | 34 U.S.C. 523. | Aug. 29, 1916, ch. 417, 39 Stat. 606 (3d proviso). |

The word ''agency'' is substituted for the word ''branch'' to conform to present terminology. The words ''by the Secretary of the Navy and the head of the department or agency having control of the land''

are added to identify the officials who ''mutually'' select the site.

### § 7224. Transportation on naval vessels during wartime

In time of war or during a national emergency declared by the President, such persons as the Secretary of the Navy authorizes by regulation may be transported and subsisted on naval vessels at Government expense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 447.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7224 ..... | 34 U.S.C. 474. | Aug. 2, 1946, ch. 756, § 18, 60 Stat. 855. |

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of section 474 of former Title 34, the date July 25, 1947, should be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

The state of war with Japan ended on Apr. 28, 1952, by the coming into effect of the Treaty of Peace with Japan on that date. The state of war with Germany ended on Oct. 19, 1951. See notes preceding section 1 of Appendix to Title 50, War and National Defense.

### § 7225. Navy Reserve flag

The Secretary of the Navy shall prescribe a suitable flag to be known as the Navy Reserve flag. This flag may be flown by a seagoing merchant vessel if—

(1) the vessel is documented under the laws of the United States;

(2) the vessel has been designated by the Secretary, under such regulations as he prescribes, as suitable for service as a naval auxiliary in time of war; and

(3) the master or commanding officer and at least half of the other licensed officers of the vessel are members of the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 447; Pub. L. 109–163, div. A, title V, § 515(b)(1)(T), (3)(D), Jan. 6, 2006, 119 Stat. 3233, 3234.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7225 ..... | 50 U.S.C. 1048. | July 9, 1952, ch. 608, § 409, 66 Stat. 499. |

In clause (3) the words ''at least half'' are substituted for the words ''not less than 50 per centum''. The words ''or Naval Reserve'' are omitted as surplusage, since the Navy includes the Naval Reserve.

AMENDMENTS

2006—Pub. L. 109–163, § 515(b)(3)(D), substituted ''Navy Reserve'' for ''Naval Reserve'' in section catchline.

Pub. L. 109–163, § 515(b)(1)(T), substituted ''Navy Reserve'' for ''Naval Reserve'' in introductory provisions.

### § 7226. Navy Reserve yacht pennant

The Secretary of the Navy shall prescribe a suitable pennant to be known as the Navy Reserve yacht pennant. This pennant may be flown by a yacht or similar vessel if—

(1) the vessel is documented under the laws of the United States;

(2) the vessel has been designated by the Secretary, under such regulations as he prescribes, as suitable for service as a naval auxiliary in time of war; and

(3) the captain or owner of the vessel is a member of the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 447; Pub. L. 109–163, div. A, title V, § 515(b)(1)(U), (3)(E), Jan. 6, 2006, 119 Stat. 3233, 3234.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7226 ..... | 50 U.S.C. 1049. | July 9, 1952, ch. 608, § 410, 66 Stat. 499. |

In clause (3) the words ''or Naval Reserve'' are omitted as surplusage, since the Navy includes the Naval Reserve.

AMENDMENTS

2006—Pub. L. 109–163, § 515(b)(3)(E), substituted ''Navy Reserve'' for ''Naval Reserve'' in section catchline.

Pub. L. 109–163, § 515(b)(1)(U), substituted ''Navy Reserve'' for ''Naval Reserve'' in introductory provisions.

### § 7227. Foreign naval vessels and aircraft: supplies and services

(a) The Secretary of the Navy, under such regulations as he prescribes, may authorize any United States naval vessel or activity to furnish any of the following supplies or services, when in the best interests of the United States, on a reimbursable basis without an advance of funds if similar supplies and services are furnished on a like basis to naval vessels and military aircraft of the United States by the foreign country concerned:

(1) Routine port services in territorial waters of the United States or in waters under United States control, including pilotage, tugs, garbage removal, line-handling, and utilities, to naval vessels of foreign countries.

(2) Routine airport services, including landing and takeoff assistance, use of runways, parking and servicing, to military aircraft of foreign countries.

(3) Miscellaneous supplies, including fuel, provisions, spare parts, and general stores, but not including ammunition, to naval vessels and military aircraft of foreign countries.

(4) Overhauls, repairs, and alterations together with necessary equipment and its installation required in connection therewith, to naval vessels and military aircraft of foreign countries.

(b)(1) Routine port and airport services may be furnished under this section at no cost to the foreign country concerned where such services are provided by United States naval personnel and equipment without direct cost to the Navy.

(2) When furnishing routine port services under this section to naval vessels of a foreign country, the Secretary may furnish such services without reimbursement if such services are provided under an agreement that provides for the reciprocal furnishing by such country of routine port services to naval vessels of the United States without reimbursement. When furnishing

routine airport services under this section to military aircraft of a foreign country, the Secretary may furnish such services without reimbursement if such services are provided under an agreement that provides for the reciprocal furnishing by such country of routine airport services to military aircraft of the United States without reimbursement.

(3) If routine port or airport services are furnished under this section by a working-capital fund activity of the Navy established under section 2208 of this title and such activity is not reimbursed directly for the costs incurred by the activity in furnishing those services by reason of paragraph (2), the working-capital fund activity shall be reimbursed for such costs out of operating funds currently available to the Navy.

(c) Payments for supplies and services furnished under this section may be credited to current appropriations so as to be available for the same purpose as the appropriation initially charged.

(Aug. 10, 1956, ch. 1041, 70A Stat. 447; Pub. L. 86–55, § 1, June 23, 1959, 73 Stat. 89; Pub. L. 98–94, title XII, § 1219(a), Sept. 24, 1983, 97 Stat. 691; Pub. L. 98–525, title XIV, § 1405(49), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 102–190, div. A, title X, § 1048, Dec. 5, 1991, 105 Stat. 1468.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7227 ..... | 34 U.S.C. 555d, 34 U.S.C. 555e. | May 27, 1953, ch. 67, 67 Stat. 34. |

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–190, § 1048(a), struck out ''friendly'' before ''foreign country'' in introductory provisions and ''friendly'' before ''foreign countries'' in pars. (1) to (4).

Subsec. (b)(2). Pub. L. 102–190, § 1048(b), struck out subpar. (A) designation, substituted ''naval vessels of a foreign country'' for ''naval vessels of an allied country'', inserted after first sentence ''When furnishing routine airport services under this section to military aircraft of a foreign country, the Secretary may furnish such services without reimbursement if such services are provided under an agreement that provides for the reciprocal furnishing by such country of routine airport services to military aircraft of the United States without reimbursement.'', designated last sentence relating to furnishing of routine services by a working-capital fund activity of the Navy as par. (3), and struck out former subpar. (B) which defined ''allied country''.

Subsec. (b)(3). Pub. L. 102–190, § 1048(b)(5), designated last sentence of par. (2) relating to furnishing of routine services by a working-capital fund activity of the Navy as par. (3) and substituted ''port or airport services'' for ''port services'' and ''paragraph (2)'' for ''this paragraph''.

1984—Subsec. (a)(1), (2). Pub. L. 98–525, § 1405(49)(A), (C), in cls. (1) and (2), substituted ''Routine'' for ''routine'' and a period for the semicolon at the end.

Subsec. (a)(3). Pub. L. 98–525, § 1405(49)(B), (D), substituted ''Miscellaneous'' for ''miscellaneous'' and a period for ''; and''.

1983—Subsec. (b). Pub. L. 98–94 designated existing provisions as par. (1) and added par. (2).

1959—Pub. L. 86–55 authorized supplies and services to be furnished by any United States naval vessel or activity, and the furnishing of supplies and services to aircraft, eliminated provisions which limited the furnishing of supplies on a reimbursable basis to ships of foreign countries that had entered into a prior reciprocal agreement, and which permitted services, including overhauling, repairs, alterations and installation of equipment, to be furnished only if funds to cover the estimated cost thereof were advanced, and permitted the furnishing of routine port and airport services at no cost where such services are without direct cost to the Navy.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 1219(b) of Pub. L. 98–94 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1983.''

## § 7228. Merchant vessels: supplies

(a) The Secretary of the Navy, under such regulations as he prescribes, may sell to a merchant ship such fuel and other supplies as may be required to meet its necessities if the ship is unable—

(1) to procure the supplies from other sources at its present location; and

(2) to proceed to the nearest port where they may be obtained without endangering the safety of the ship, the health and comfort of its personnel, or the safe condition of the property carried on it.

(b) Sales under this section shall be at such prices as the Secretary considers reasonable. Payment shall be made on a cash basis or on such other basis as will reasonably assure prompt payment. Amounts received from such a sale shall, unless otherwise directed by another provision of law, be credited to the current appropriation concerned and are available for the same purposes as that appropriation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 448.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7228 ..... | 34 U.S.C. 555f. | June 4, 1954, ch. 264, § 3, 68 Stat. 176. |

## § 7229. Purchase of fuel

In buying fuel, the Secretary of the Navy may, in any manner he considers proper, buy the kind of fuel that is best adapted to the purpose for which it is to be used.

(Aug. 10, 1956, ch. 1041, 70A Stat. 448.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7229 ..... | 34 U.S.C. 580. | R.S. 3728. |

The first sentence is omitted as covered by § 2 of the Act of Mar. 3, 1933, ch. 212 (41 U.S.C. 10a). The words ''for the Navy, or for naval stations and yards'' are omitted, since R.S. 3728 has been interpreted as authorizing the Armed Services Petroleum Purchasing Agency to negotiate contracts for the purchase of fuel, not only when acting as a procuring activity for the Navy, but also when filling the consolidated fuel requirements of the armed forces. The word ''may'' is substituted for the words ''shall have the power to'' for uniformity. The words ''discriminate and'' are omitted as surplusage.

## [§ 7230. Repealed. Pub. L. 103–160, div. A, title VIII, § 824(a)(4), Nov. 30, 1993, 107 Stat. 1707]

Section, added Pub. L. 85–43, § 1(1), May 31, 1957, 71 Stat. 44; amended Pub. L. 87–651, title I, § 125, Sept. 7,

1962, 76 Stat. 514, related to sale of degaussing equipment.

### § 7231. Accounting for expenditures for obtaining information

When the Secretary of the Navy decides that an expenditure by the Department of the Navy from an appropriation for obtaining information from anywhere in the world may be made public, the expenditure shall be accounted for specifically. When the Secretary decides that an expenditure should not be made public, the Secretary shall make a certificate on the amount of the expenditure. The certificate is a sufficient voucher for the amount stated to have been spent.

(Added Pub. L. 97–258, § 2(b)(11)(B), Sept. 13, 1982, 96 Stat. 1057.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7231 ..... | 31:108. | Aug. 29, 1916, ch. 417 (2d proviso under heading ''Pay, Miscellaneous''), 39 Stat. 557. |

The words ''anywhere in the world'' are substituted for ''abroad and at home'', and the words ''decides that an expenditure should not be made public'' are substituted for ''may think it advisable not to specify'', for clarity and consistency.

### § 7233.[1] Auxiliary vessels: extended lease authority

(a) AUTHORIZED CONTRACTS.—Subject to subsection (b), the Secretary of the Navy may enter into contracts with private United States shipyards for the construction of new surface vessels to be acquired on a long-term lease basis by the United States from the shipyard or other private person for any of the following:

(1) The combat logistics force of the Navy.

(2) The strategic sealift force of the Navy.

(3) Other auxiliary support vessels for the Department of Defense.

(b) CONTRACTS REQUIRED TO BE AUTHORIZED BY LAW.—A contract may be entered into under subsection (a) with respect to a specific vessel only if the Secretary is specifically authorized by law to enter into such a contract with respect to that vessel. As part of a request to Congress for enactment of any such authorization by law, the Secretary of the Navy shall provide to Congress the Secretary's findings under subsection (g).

(c) TERM OF CONTRACT.—In this section, the term ''long-term lease'' means a lease, bareboat charter, or conditional sale agreement with respect to a vessel the term of which (including any option period) is for a period of 20 years or more.

(d) OPTION TO BUY.—A contract entered into under subsection (a) may include options for the United States to purchase one or more of the vessels covered by the contract at any time during, or at the end of, the contract period (including any option period) upon payment of an amount equal to the lesser of (1) the unamortized portion of the cost of the vessel plus amounts incurred in connection with the termination of the financing arrangements associated with the vessel, or (2) the fair market value of the vessel.

(e) DOMESTIC CONSTRUCTION.—The Secretary shall require in any contract entered into under this section that each vessel to which the contract applies—

(1) shall have been constructed in a shipyard within the United States; and

(2) upon delivery, shall be documented under the laws of the United States.

(f) VESSEL OPERATION.—(1) The Secretary may operate a vessel held by the Secretary under a long-term lease under this section through a contract with a United States corporation with experience in the operation of vessels for the United States. Any such contract shall be for a term as determined by the Secretary.

(2) The Secretary may provide a crew for any such vessel using civil service mariners only after an evaluation taking into account—

(A) the fully burdened cost of a civil service crew over the expected useful life of the vessel;

(B) the effect on the private sector manpower pool; and

(C) the operational requirements of the Department of the Navy.

(g) CONTINGENT WAIVER OF OTHER PROVISIONS OF LAW.—(1) The Secretary may waive the applicability of subsections (e)(2) and (f) of section 2401 of this title to a contract authorized by law as provided in subsection (b) if the Secretary makes the following findings with respect to that contract:

(A) The need for the vessels or services to be provided under the contract is expected to remain substantially unchanged during the contemplated contract or option period.

(B) There is a reasonable expectation that throughout the contemplated contract or option period the Secretary of the Navy (or, if the contract is for services to be provided to, and funded by, another military department, the Secretary of that military department) will request funding for the contract at the level required to avoid contract cancellation.

(C) The timeliness of consideration of the contract by Congress is such that such a waiver is in the interest of the United States.

(2) The Secretary shall submit a notice of any waiver under paragraph (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(h) SOURCE OF FUNDS FOR TERMINATION LIABILITY.—If a contract entered into under this section is terminated, the costs of such termination may be paid from—

(1) amounts originally made available for performance of the contract;

(2) amounts currently available for operation and maintenance of the type of vessels or services concerned and not otherwise obligated; or

(3) funds appropriated for those costs.

(Added Pub. L. 106–65, div. A, title X, § 1014(a)(1), Oct. 5, 1999, 113 Stat. 741.)

[1] So in original. No section 7232 has been enacted.

EFFECTIVE DATE

Pub. L. 106–65, div. A, title X, § 1014(c), Oct. 5, 1999, 113 Stat. 742, provided that: ''Section 7233 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1999.''

### § 7234. Submarine safety programs: participation of NATO naval personnel

(a) ACCEPTANCE OF ASSIGNMENT OF FOREIGN NAVAL PERSONNEL.—In order to facilitate the development, standardization, and interoperability of submarine vessel safety and rescue systems and procedures, the Secretary of the Navy may conduct a program under which members of the naval service of any of the member nations of the North Atlantic Treaty Organization may be assigned to United States commands to work on such systems and procedures.

(b) RECIPROCITY NOT REQUIRED.—The authority under subsection (a) is not an exchange program. Reciprocal assignments of members of the Navy to the naval service of a foreign country is not a condition for the exercise of such authority.

(c) COSTS FOR FOREIGN PERSONNEL.—(1) The United States may not pay the following costs for a member of a foreign naval service sent to the United States under the program authorized by this section:

(A) Salary.
(B) Per diem.
(C) Cost of living.
(D) Travel costs.
(E) Cost of language or other training.
(F) Other costs.

(2) Paragraph (1) does not apply to the following costs, which may be paid by the United States:

(A) The cost of temporary duty directed by the Secretary of the Navy or an officer of the Navy authorized to do so.

(B) The cost of training programs conducted to familiarize, orient, or certify members of foreign naval services regarding unique aspects of their assignments.

(C) Costs incident to the use of the facilities of the Navy in the performance of assigned duties.

(d) RELATIONSHIP TO OTHER AUTHORITY.—The provisions of this section shall apply in the exercise of any authority of the Secretary of the Navy to enter into an agreement with the government of a foreign country, subject to the concurrence of the Secretary of State, to provide for the assignment of members of the naval service of the foreign country to a Navy submarine safety program. The Secretary of the Navy may prescribe regulations for the application of this section in the exercise of such authority.

(e) TERMINATION OF AUTHORITY.—The Secretary of the Navy may not accept the assignment of a member of the naval service of a foreign country under this section after September 30, 2008.

(Added Pub. L. 108–375, div. A, title XII, § 1223(a), Oct. 28, 2004, 118 Stat. 2089.)

## CHAPTER 633—NAVAL VESSELS

Sec.
7291. Classification.
7292. Naming.
7293. Number in service in time of peace.
7294. Suspension of construction in case of treaty.
7295. Vessels: under-age.
7296. Combatant surface vessels: notice before reduction in number; preservation of surge capability.
7297. Changing category or type: limitations.
[7298. Repealed.]
7299. Contracts: applicability of Walsh-Healey Act.
7299a. Construction of combatant and escort vessels and assignment of vessel projects.
7300. Contracts for nuclear ships: sales of naval shipyard articles and services to private shipyards.
[7301, 7302. Repealed.]
7303. Model basin; investigation of hull designs.
7304. Examination of vessels; striking of vessels from Naval Vessel Register.
7305. Vessels stricken from Naval Vessel Register: sale.
7305a. Vessels stricken from Naval Vessel Register: contracts for dismantling on net-cost basis.
7306. Vessels stricken from Naval Vessel Register; captured vessels: transfer by gift or otherwise.
7306a. Vessels stricken from Naval Vessel Register: use for experimental purposes.
7306b. Vessels stricken from Naval Vessel Register: transfer by gift or otherwise for use as artificial reefs.
7307. Disposals to foreign nations.
7308. Chief of Naval Operations: certification required for disposal of combatant vessels.
7309. Construction of vessels in foreign shipyards: prohibition.
7310. Overhaul, repair, etc. of vessels in foreign shipyards: restrictions.
7311. Repair or maintenance of naval vessels: handling of hazardous waste.
7312. Service craft stricken from Naval Vessel Register; obsolete boats: use of proceeds from exchange or sale.
7313. Ship overhaul work: availability of appropriations for unusual cost overruns and for changes in scope of work.
7314. Overhaul of naval vessels: competition between public and private shipyards.
7315. Preservation of Navy shipbuilding capability.
7316. Support for transfers of decommissioned vessels and shipboard equipment.

AMENDMENTS

2004—Pub. L. 108–375, div. A, title X, §§ 1011(b), 1012(a)(2), Oct. 28, 2004, 118 Stat. 2039, 2040, added items 7305a and 7312.

2003—Pub. L. 108–136, div. A, title X, §§ 1013(b), 1015(b), Nov. 24, 2003, 117 Stat. 1591, 1592, added items 7306b and 7316.

2002—Pub. L. 107–314, div. A, title X, § 1021(b)(2), Dec. 2, 2002, 116 Stat. 2639, added item 7296.

1999—Pub. L. 106–65, div. A, title X, § 1016(b), Oct. 5, 1999, 113 Stat. 744, added item 7300.

1997—Pub. L. 105–85, div. A, title X, § 1027(a)(2), Nov. 18, 1997, 111 Stat. 1879, added item 7315.

1996—Pub. L. 104–106, div. A, title VIII, § 815(b), Feb. 10, 1996, 110 Stat. 396, added item 7299.

1994—Pub. L. 103–355, title II, § 2001(j)(3)(A), title III, §§ 3023(b), 3024(b), Oct. 13, 1994, 108 Stat. 3303, 3333, 3334, struck out items 7299 ''Contracts: application of Public Contracts Act'', 7302 ''Construction on Pacific Coast'', and 7312 ''Repair or maintenance of naval vessels: progress payments under certain contracts''.

1993—Pub. L. 103–160, div. A, title VIII, § 828(a)(7), (c)(7), Nov. 30, 1993, 107 Stat. 1713, 1714, struck out items 7296 ''Appropriations: available for other purposes'', 7298 ''Conversion of combatants and auxiliaries'', and 7301 ''Bids on construction: estimates required'', substituted ''Examination of vessels; striking of vessels''

for ''Examination by board: unfit vessel stricken'' in item 7304, ''Vessels stricken from Naval Vessel Register: sale'' for ''Sale of vessel stricken from Naval Vessel Register'' in item 7305, and ''Vessels stricken from Naval Vessel Register; captured vessels: transfer by gift or otherwise'' for ''Use for experimental purposes'' in item 7306, added item 7306a, substituted ''Disposals to foreign nations'' for ''Restriction on disposal'' in item 7307, ''Chief of Naval Operations: certification required for disposal of combatant vessels'' for ''Transfer or gift of obsolete, condemned, or captured vessels'' in item 7308, ''Construction of vessels in foreign shipyards: prohibition'' for ''Restrictions on construction or repair of vessels in foreign shipyards'' in item 7309, and ''Overhaul, repair, etc. of vessels in foreign shipyards: restrictions'' for ''Policy in constructing combatant vessels'' in item 7310.

1989—Pub. L. 101–189, div. A, title XVI, § 1622(a), Nov. 29, 1989, 103 Stat. 1604, redesignated item 7313 ''Overhaul of naval vessels: competition between public and private shipyards'' as 7314.

1988—Pub. L. 100–456, div. A, title XII, §§ 1224(b)(2), 1225(a)(2), Sept. 29, 1988, 102 Stat. 2054, 2055, substituted ''Restrictions on construction or repair'' for ''Restriction on construction'' in item 7309 and added item 7313 ''Overhaul of naval vessels: competition between public and private shipyards''.

Pub. L. 100–370, § 1(n)(2), July 19, 1988, 102 Stat. 850, added item 7313 ''Ship overhaul work: availability of appropriations for unusual cost overruns and for changes in scope of work''.

1987—Pub. L. 100–180, div. A, title XI, § 1102(a)(2), Dec. 4, 1987, 101 Stat. 1145, added item 7312.

1986—Pub. L. 99–661, div. A, title XII, § 1202(b), Nov. 14, 1986, 100 Stat. 3968, added item 7311.

1985—Pub. L. 99–145, title XIII, § 1303(a)(24)(B), Nov. 8, 1985, 99 Stat. 740, struck out ''naval'' before ''vessels'' in item 7309.

1982—Pub. L. 97–295, § 1(48)(B), Oct. 12, 1982, 96 Stat. 1298, added item 7299a.

Pub. L. 97–295, § 1(49)(B), Oct. 12, 1982, 96 Stat. 1299, added item 7310.

Pub. L. 97–252, title XI, § 1127(b), Sept. 8, 1982, 96 Stat. 759, added item 7309.

1981—Pub. L. 97–86, title IX, § 911(b)(2), Dec. 1, 1981, 95 Stat. 1122, struck out item 7300 ''Contracts for construction: profit limitation''.

## § 7291. Classification

The President may establish, and from time to time modify, as the needs of the service require, a classification of naval vessels.

(Aug. 10, 1956, ch. 1041, 70A Stat. 448.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7291 ..... | 34 U.S.C. 451 (as applicable to classification of vessels). | Mar. 3, 1901, ch. 852 (last par. as applicable to classification of vessels), 31 Stat. 1133. |

PILOT PROGRAM FOR FLEXIBLE FUNDING OF CRUISER CONVERSIONS AND OVERHAULS

Pub. L. 108–136, div. A, title I, § 126, Nov. 24, 2003, 117 Stat. 1410, authorized the Secretary of the Navy to carry out a pilot program for flexible funding of cruiser conversions and overhauls, prior to repeal by Pub. L. 108–287, title VIII, § 8099 [part], Aug. 5, 2004, 118 Stat. 994, and Pub. L. 108–375, div. A, title I, § 122, Oct. 28, 2004, 118 Stat. 1828.

VESSEL SCRAPPING PILOT PROGRAM

Pub. L. 105–262, title VIII, § 8124, Oct. 17, 1998, 112 Stat. 2333, provided that: ''The Secretary of the Navy may carry out a competitively awarded vessel scrapping pilot program during fiscal years 1999 and 2000 using funds made available in this Act under the heading 'Operation and Maintenance, Navy' [112 Stat. 2282]: *Provided*, That the Secretary of the Navy shall define the program scope sufficient to gather data on the cost of scrapping Government vessels and to demonstrate cost-effective technologies and techniques to scrap such vessels in a manner that is protective of worker safety and health and the environment.''

CONSIDERATION OF VESSEL LOCATION FOR AWARD OF LAYBERTH CONTRACTS FOR SEALIFT VESSELS

Pub. L. 102–484, div. A, title III, § 375, Oct. 23, 1992, 106 Stat. 2385, provided that:

''(a) CONSIDERATION OF VESSEL LOCATION IN THE AWARD OF LAYBERTH CONTRACTS.—As a factor in the evaluation of bids and proposals for the award of contracts to layberth sealift vessels of the Department of the Navy, the Secretary of the Navy shall include the location of the vessels, including whether the vessels should be layberthed at locations where—

''(1) members of the Armed Forces are likely to be loaded onto the vessels; and

''(2) layberthing the vessels maximizes the ability of the vessels to meet mobility and training needs of the Department of Defense.

''(b) ESTABLISHMENT OF LOCATION AS A MAJOR CRITERION.—In the evaluation of bids and proposals referred to in subsection (a), the Secretary of the Navy shall give the same level of consideration to the location of the vessels as the Secretary gives to other major factors established by the Secretary.

''(c) APPLICABILITY.—Subsection (a) shall apply to any solicitation for bids or proposals issued after the end of the 120-day period beginning on the date of the enactment of this Act [Oct. 23, 1992].''

REVITALIZATION OF UNITED STATES SHIPBUILDING INDUSTRY

Pub. L. 102–484, div. A, title X, § 1031, Oct. 23, 1992, 106 Stat. 2489, provided that:

''(a) IN GENERAL.—The Secretary of Defense shall require that all sealift ships built under the fast sealift program established in section 1424 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1683) [set out below] shall be constructed and designed to commercial specifications.

''(b) INTERAGENCY WORKING GROUP TO FORMULATE A PROGRAM TO PRESERVE SHIPYARD INDUSTRIAL BASE.—(1) Not later than March 1, 1993, the President shall establish an interagency working group for the sole purpose of developing and implementing a comprehensive plan to enable and ensure that domestic shipyards can compete effectively in the international shipbuilding market.

''(2) The working group shall include representatives from all appropriate agencies, including the Department of Defense, the Department of State, the Department of Commerce, the Department of Transportation, the Department of Labor, the Office of the United States Trade Representative, and the Maritime Administration.

''(3) The President shall submit to Congress the comprehensive plan developed by the working group not later than October 1, 1993.

''(c) REPORT ON SHIP DUMPING PRACTICES.—The Secretary of Transportation shall prepare a report on the countries that provide subsidies for the construction or repair of vessels in foreign shipyards or that engage in ship dumping practices.

''(d) REPORT ON DEFENSE CONTRACTS.—The Secretary of Defense shall prepare a report on—

''(1) the amount of Department of Defense contracts that were awarded to companies physically located or headquartered in the countries identified in the Secretary of Transportation's report under subsection (d) for the most recent year for which data is available; and

''(2) the effect on defense programs of a prohibition of awarding contracts to companies physically lo-

cated or headquartered in the countries identified in the Secretary of Transportation's report under subsection (d).

''(e) REPORT ON ADEQUACY OF UNITED STATES SHIPBUILDING INDUSTRY.—The Secretary of Defense shall prepare a report on—

''(1) the adequacy of United States shipbuilding industry to meet military requirements, including sealift, during the period of 1994 through 1999; and

''(2) the causes of any inadequacy identified and actions that could be taken to correct such inadequacies.

''(f) SUBMISSION OF REPORTS.—The reports under subsections (c), (d), and (e) shall be submitted to Congress with the President's budget for fiscal year 1994.

''(g) PENALTY FOR FAILURE TO COMPLY.—(1) Except as provided in paragraph (2), if the President fails to submit to Congress a comprehensive plan as required by subsection (b) by October 1, 1993, no funds appropriated to the Department of Defense for fiscal year 1994 may be used to enter into a contract for the construction, repair, or purchase of any product or service with any company that has headquarters in any country that continues to provide a subsidy to a foreign shipyard for the construction or repair of vessels or that engages in ship dumping practices.

''(2) Paragraph (1) shall not apply if the President—

''(A) notifies Congress that he is unable to submit the plan by the time required under subsection (c); and

''(B) includes with the notice a brief explanation of the reasons for the delay and a statement that the plan will be submitted by April 15, 1994.

''(h) DEFINITIONS.—For purposes of subsection (c):

''(1) The term 'foreign shipyard' includes a ship construction or repair facility located in a foreign country that is directly or indirectly owned, controlled, managed, or financed by a foreign shipyard that receives or benefits from a subsidy.

''(2) The term 'subsidy' includes any of the following:

''(A) Officially supported export credits and development assistance.

''(B) Direct official operating support to the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including—

''(i) grants;

''(ii) loans and loan guarantees other than those available on the commercial market;

''(iii) forgiveness of debt;

''(iv) equity infusions on terms inconsistent with commercially reasonable investment practices;

''(v) preferential provision of goods and services; and

''(vi) public sector ownership of commercial shipyards on terms inconsistent with commercially reasonable investment practices.

''(C) Direct official support for investment in the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including the kinds of support listed in clauses (i) through (v) of subparagraph (B), and any restructuring support, except public support for social purposes directly and effectively linked to shipyard closures.

''(D) Assistance in the form of grants, preferential loans, preferential tax treatment, or otherwise, that benefits or is directly related to shipbuilding and repair for purposes of research and development that is not equally open to domestic and foreign enterprises.

''(E) Tax policies and practices that favor the shipbuilding and repair industry, directly or indirectly, such as tax credits, deductions, exemptions and preferences, including accelerated depreciation, if the benefits are not generally available to persons or firms not engaged in shipbuilding or repair.

''(F) Any official regulation or practice that authorizes or encourages persons or firms engaged in shipbuilding or repair to enter into anticompetitive arrangements.

''(G) Any indirect support directly related, in law or in fact, to shipbuilding and repair at national yards, including any public assistance favoring shipowners with an indirect effect on shipbuilding or repair activities, and any assistance provided to suppliers of significant inputs to shipbuilding, which results in benefits to domestic shipbuilders.

''(H) Any export subsidy identified in the Illustrative List of Export Subsidies in the Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade or any other export subsidy that may be prohibited as a result of the Uruguay Round of trade negotiations.

''(3) The term 'vessel' means any self-propelled, seagoing vessel—

''(A) of not less than 100 gross tons, as measured under the International Convention of Tonnage Measurement of Ships, 1969; and

''(B) not exempt from entry under section 441 of the Tariff Act of 1930 (19 U.S.C. 1431).''

FAST SEALIFT PROGRAM

Pub. L. 102–484, div. A, title X, § 1021, Oct. 23, 1992, 106 Stat. 2485, provided that:

''(a) ACQUISITION AND CONVERSION OF U.S. BUILT VESSELS.—Notwithstanding any other provision of law, the Secretary of the Navy may use funds available for the Fast Sealift Program—

''(1) to acquire vessels for the program from among available vessels built in United States shipyards; and

''(2) to convert in United States shipyards vessels built in United States shipyards.

''(b) ACQUISITION OF FIVE FOREIGN-BUILT VESSELS.—Notwithstanding any other provision of law, funds available for the Fast Sealift Program may be used for the acquisition of five vessels built in foreign shipyards and for conversion of those vessels in United States shipyards if the Secretary of the Navy determines that acquisition of those vessels is necessary to expedite the availability of vessels for sealift.''

Pub. L. 101–510, div. A, title XIV, § 1424, Nov. 5, 1990, 104 Stat. 1683, as amended by Pub. L. 102–190, div. A, title X, § 1015, Dec. 5, 1991, 105 Stat. 1458; Pub. L. 102–484, div. A, title X, § 1022, Oct. 23, 1992, 106 Stat. 2485; Pub. L. 103–337, div. A, title I, § 125, Oct. 5, 1994, 108 Stat. 2683, provided that:

''(a) ESTABLISHMENT OF PROGRAM.—The Secretary of the Navy shall establish a program for the construction and operation, or conversion and operation, of cargo vessels that incorporate features essential for military use of the vessels.

''(b) PROGRAM REQUIREMENTS.—The program under this section shall be carried out as follows:

''(1) The Secretary of the Navy shall establish the design requirements for vessels to be constructed or converted under the program.

''(2) In establishing the design requirements for vessels to be constructed or converted under the program, the Secretary shall use commercial design standards and shall consult with the Administrator of the Maritime Administration.

''(3) Construction or conversion of the vessels shall be accomplished in private United States shipyards.

''(4) The vessels constructed or converted under the program shall incorporate propulsion systems whose main components (that is, the engines, reduction gears, and propellers) are manufactured in the United States.

''(5) The vessels constructed or converted under the program shall incorporate bridge and machinery control systems and interior communications equipment which—

''(A) are manufactured in the United States; and

''(B) have more than half of their value, in terms of cost, added in the United States.

''(6) The Secretary of Defense may waive the requirement of paragraph (5) with respect to a system or equipment described in that paragraph if—

''(A) the system or equipment is not available; or

''(B) the costs of compliance would be unreasonable compared to the costs of purchase from a foreign manufacturer.

''(c) CHARTER OF VESSELS CONSTRUCTED.—(1) Except when the Secretary determines that having a vessel immediately available with a full or partial crew is in the national interest, the Secretary, in consultation with the Administrator of the Maritime Administration, shall charter each vessel constructed before October 1, 1995, under the program for commercial operation. Any such charter—

''(A) shall not permit the operation of the vessel other than in the foreign commerce of the United States;

''(B) may be made only with an individual or entity that is a citizen of the United States (which, in the case of a corporation, partnership, or association, shall be determined in the manner specified in section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)) [46 App. U.S.C. 802, 803]; and

''(C) shall require that the vessel be documented (and remain documented) under the laws of the United States.

''(2) The Secretary may enter into a charter under paragraph (1) only through the use of competitive bidding procedures that ensure that the highest charter rates are obtained by the United States consistent with good business practice, except that the Secretary may operate the vessel (or contract to have the vessel operated) in direct support of United States military forces during a time of war or national emergency and at other times when the Administrator of the Maritime Administration determines that that operation would not unfairly compete with another United States-flag vessel.

''(3) If the Secretary determines that a vessel previously chartered under the program no longer has commercial utility, the Secretary may transfer the vessel to the National Defense Reserve Fleet.

''(4) A contract for the charter of a vessel under paragraph (1) shall include a provision that the charter may be terminated for national security reasons without cost to the United States.

''(d) REPORTS TO CONGRESS.—(1) Not later than six months after the date of the enactment of this Act [Nov. 5, 1990], the Secretary of the Navy shall submit to Congress a report describing the Secretary's plan for implementing the fast sealift program authorized by this section.

''(2) Not later than three years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the implementation of the plan described in the report submitted under paragraph (1). The report shall include a description of vessels built or under contract to be built pursuant to this section, the use of such vessels, and the operating experience and manning of such vessels.

''(3) The reports under paragraphs (1) and (2) shall be prepared in consultation with the Administrator of the Maritime Administration.

''(e) AVAILABILITY OF FUNDS.—Amounts appropriated to the Department of Defense for any fiscal year for acquisition of fast sealift vessels may be used for the program under this section.''

FUNDING FOR SHIP PRODUCTION ENGINEERING

Pub. L. 101–189, div. A, title XVI, § 1613, Nov. 29, 1989, 103 Stat. 1601, provided that:

''(a) CATEGORY FOR FUNDING.—Any request submitted to Congress for appropriations for ship production engineering necessary to support the procurement of any ship included (at the time the request is submitted) in the five-year shipbuilding and conversion plan of the Navy shall be set forth in the Shipbuilding and Conversion account of the Navy (rather than in research and development accounts).

''(b) APPLICABILITY.—Subsection (a) shall apply only with respect to appropriations for a fiscal year after fiscal year 1990.''

DEPOT-LEVEL MAINTENANCE OF SHIPS

Pub. L. 101–189, div. A, title XVI, § 1614(a), (b), Nov. 29, 1989, 103 Stat. 1601, directed Secretary of the Navy to require that, to the extent feasible and consistent with policies of the Navy regarding family separations, not less than one-half of the depot-level maintenance work for naval vessels that was scheduled as of Oct. 1, 1989, to be carried out in Japan during fiscal years 1990, 1991, and 1992, was to be carried out in shipyards in the United States. Similar provisions were contained in Pub. L. 100–456, div. A, title XII, § 1226, Sept. 29, 1988, 102 Stat. 2055, which was repealed by Pub. L. 101–189, div. A, title XVI, § 1614(c), Nov. 29, 1989, 103 Stat. 1601.

REPORTS ON EFFECTS OF NAVAL SHIPBUILDING PLANS ON MARITIME INDUSTRIES

Pub. L. 100–456, div. A, title XII, § 1227, Sept. 29, 1988, 102 Stat. 2055, directed Secretary of Defense to submit to Congress in 1989, 1990, and 1991 a report on how, under the current Five-Year Defense Program of Department of Defense, programs for naval shipbuilding and conversion, for naval vessel repair, and for procurement of support equipment for naval vessels could be expected to affect private-sector shipbuilding and ship repair industries of United States in terms of effectiveness and preparedness of those industries for mobilization in their role in the sealift component of the conventional deterrent of the United States.

REPAIR OF VESSELS IN FOREIGN SHIPYARDS

Pub. L. 99–500, § 101(c) [title IX, § 9101], Oct. 18, 1986, 100 Stat. 1783–82, 1783–118, and Pub. L. 99–591, § 101(c) [title IX, § 9101], Oct. 30, 1986, 100 Stat. 3341–82, 3341–118, provided that: ''No naval vessel or any vessel owned and operated by the Department of Defense homeported in the United States may be overhauled, repaired, or maintained in a foreign owned and operated shipyard located outside of the United States, except for voyage repairs.''

ENCOURAGEMENT OF CONSTRUCTION IN UNITED STATES SHIPYARDS OF COMBATANT VESSELS FOR UNITED STATES ALLIES

Pub. L. 99–145, title XIV, § 1455, Nov. 8, 1985, 99 Stat. 761, provided that:

''(a) IN GENERAL.—The Secretary of the Navy shall take such steps as necessary—

''(1) to encourage United States shipyards to construct combatant vessels for nations friendly to the United States, subject to the requirement to safeguard sensitive warship technology; and

''(2) to ensure that no effort is made by any element of the Department of the Navy to inhibit, delay, or halt the provision of any United States naval system to a nation allied with the United States if that system is approved for export to a foreign nation, unless approval of such system for export is withheld solely for the purpose of safeguarding sensitive warship technology;

''(3) if opportunities arise to construct combatant vessels (including diesel submarines) outside the United States in a shipyard of a friendly foreign nation, with some or all of the costs provided by United States funds—

''(A) to encourage United States firms to participate in such construction to the maximum extent possible, subject to the requirement to safeguard sensitive warship technology; and

''(B) to ensure, whenever practicable, that at least 51 percent of the dollar value of such construction is provided by United States firms.

''(b) DEFINITION.—For the purposes of this section, the term 'sensitive warship technology' means technology relating to the design or construction of a combatant naval vessel that is determined by the Secretary of Defense to be vital to United States security.''

SIX-HUNDRED-SHIP GOAL FOR NAVY; SENSE OF CONGRESS

Pub. L. 97–114, title VII, § 791, Dec. 29, 1981, 95 Stat. 1593, provided that: ''It is the sense of the Congress that—

''(1) A larger and stronger American Navy is needed as an essential ingredient of our Armed Forces, in order to fulfill its basic missions of (A) protecting the sea lanes to preserve the safety of the free world's commerce, (B) assuring continued access to raw materials essential to the well-being of the free world, (C) enhancing our capacity to project effective American forces into regions of the world where the vital interests of the United States must be protected, (D) engaging the Navy of the Soviet Union or any other potential adversary successfully, (E) continuing to serve as a viable leg of our strategic triad, and (F) providing visible evidence of American diplomatic, economic and military commitments throughout the world.

''(2) In order to conduct the numerous and growing missions of the modern American Navy, a goal of a naval inventory of approximately six hundred active ships of various types by the end of the century at the latest, is highly desirable, the exact figure to be flexible to accommodate new designs as the specific details of our naval missions evolve to meet various contingencies.

''(3) The Secretary of Defense comply with section 808 of Public Law 94–106, the Department of Defense Appropriation Authorization Act of 1976 [set out as a note under this section], in order that the Congress may more properly appropriate the funds necessary to reach a six hundred-ship goal at least by the end of the present century.''

CONSTRUCTION OF ADVANCED, VERSATILE, SURVIVABLE, AND COST-EFFECTIVE COMBATANT SHIPS; PLANS AND PROGRAMS; PRESIDENTIAL CONCLUSIONS AND RECOMMENDATIONS TO ACCOMPANY SHIP AUTHORIZATION REQUESTS

Pub. L. 95–485, title VIII, § 810(a), (b), Oct. 20, 1978, 92 Stat. 1623, which declared it the policy of the United States to construct more survivable, less costly, and more combat effective ships, and directed the President to include in any request for authorization of a ship his conclusions on the ship's possession of the above qualities and whether and why the ship should be nuclear powered, was repealed and reenacted as section 7310 of this title by Pub. L. 97–295, §§ 1(49)(A), 6(b), Oct. 12, 1982, 96 Stat. 1298, 1315.

CONVERSION, OVERHAUL, OR REPAIR WORK UNDER SERVICE LIFE EXTENSION PROGRAM OR DDG–2 DESTROYER MODERNIZATION PROGRAM; USE OF PUBLIC OR PRIVATE SHIPYARDS; ADDITIONAL PERSONNEL; LEAST-COST APPROACH STUDY; REPORT TO CONGRESS; ADVANCED PLANNING OR PURCHASING LONG LEAD ITEMS

Pub. L. 95–485, title VIII, § 811, Oct. 20, 1978, 92 Stat. 1624, prohibited Secretary of the Navy, with certain exceptions, from taking any action with respect to the use of either public shipyards or private shipyards for conversion, overhaul, or repair work under Service Life Extension Program (SLEP) or under program for modernization of DDG–2 class guided missile destroyers, or for the employment of additional personnel for, or the transfer of additional personnel to, any public shipyard as a part of the necessary buildup of manpower for carrying out either such program, until a comprehensive least-cost approach study was conducted and a written report of such study was submitted after Oct. 20, 1978, to Congress.

NAVAL SHIP NEW CONSTRUCTION AND CONVERSION PROGRAM; REPORTS TO CONGRESSIONAL COMMITTEES

Pub. L. 94–106, title VIII, § 808, Oct. 7, 1975, 89 Stat. 539, directed Secretary of Defense to submit a five-year naval ship new construction and conversion program with President's budget for fiscal year beginning Oct. 1, 1976, and to report annually thereafter on changes in the program, prior to repeal by Pub. L. 101–510, div. A, title XIII, § 1322(g), Nov. 5, 1990, 104 Stat. 1672.

NUCLEAR POWERED MAJOR COMBATANT VESSELS; CONSTRUCTION; DEFINITIONS; REPORT TO CONGRESS BY SECRETARY OF DEFENSE; LIMITATIONS ON AUTHORIZATION OR APPROPRIATION REQUESTS: REPORT TO CONGRESS BY PRESIDENT OF ALTERNATE PROGRAM

Pub. L. 93–365, title VIII, §§ 801–804, Aug. 5, 1974, 88 Stat. 408, 409, authorized construction of nuclear powered major combatant vessels for the strike forces of the United States Navy and an adequate industrial base for research, design, maintenance, etc., of these vessels, defined the term ''major combatant vessels for the strike forces of the United States Navy'', required the Secretary of Defense to report to Congress each calendar year on the application of nuclear propulsion to these vessels, and provided all requests for authorizations or appropriations for these vessels be for the construction of nuclear powered vessels unless the President advises Congress that such construction would not be in the national interest and includes for consideration by Congress an alternate program of nuclear powered ships, prior to repeal by Pub. L. 95–485, title VIII, § 810(c), Oct. 20, 1978, 92 Stat. 1623.

TONNAGE BALANCE FOR CONSTRUCTION OF SHIPS; REPEAL

Pub. L. 89–37, title III, § 301, June 11, 1965, 79 Stat. 128, provided that: ''Outstanding tonnage balances remaining in law for construction of Navy ships are hereby repealed.''

CONSTRUCTION OF ALTERNATE VESSELS IN GOVERNMENT NAVY YARDS; PUBLIC INTERESTS

Pub. L. 89–37, title III, § 302, June 11, 1965, 79 Stat. 128, which provided that construction of warships and escort vessels follow alternate vessel Navy yard construction requirement of Act of Mar. 27, 1934, 48 Stat. 503, except in any year President finds it inconsistent with public interests, was repealed and restated as section 7299a(a) of this title by Pub. L. 97–295, §§ 1(48)(A), 6(b), Oct. 12, 1982, 96 Stat. 1298, 1314.

CONVERSION, ALTERATION, AND REPAIR PROJECTS; CONSIDERATIONS AND REQUIREMENTS

Pub. L. 89–37, title III, § 303, June 11, 1965, 79 Stat. 128, which provided that assignment of naval ship conversion, alteration, and repair projects would be made on basis of economic and military considerations and would not be restricted by requirements that certain portions of such naval shipwork be assigned to particular types of shipyards or to particular geographical areas or by similar requirements, was repealed and restated as section 7299a(b) of this title by Pub. L. 97–295, §§ 1(48)(A), 6(b), Oct. 12, 1982, 96 Stat. 1298, 1314.

## § 7292. Naming

(a) Not more than one vessel of the Navy may have the same name.

(b) Each battleship shall be named for a State. However, if the names of all the States are in use, a battleship may be named for a city, place, or person.

(c) The Secretary of the Navy may change the name of any vessel bought for the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 448.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7292(a) ..... | 34 U.S.C. 462. | R.S. 1532. |

HISTORICAL AND REVISION NOTES—CONTINUED

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 7292(b) ..... | 34 U.S.C. 461. | May 4, 1898, ch. 234, 30 Stat. 390 (2d sentence under ''Armor and Armament''); May 13, 1908, ch. 166, 35 Stat. 159; June 29, 1949, ch. 278, 63 Stat. 300 (6th par.). |
| 7292(c) ..... | 34 U.S.C. 463. | R.S. 1533. |

In subsection (a) the words ''care shall be taken that'' are omitted as surplusage.

In subsection (b) the words ''first class'' are omitted as obsolete.

In subsection (c) the words ''by authority of law'' are omitted as surplusage.

### § 7293. Number in service in time of peace

In time of peace, the President may keep in service such vessels of the Navy as are required and keep the rest in reserve.

(Aug. 10, 1956, ch. 1041, 70A Stat. 449.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 7293 ..... | 34 U.S.C. 452. | R.S. 1534. |

The words ''vessels of the Navy'' are substituted for the words ''of the public armed vessels''. The words ''actual'', ''in his opinion'', and ''by the nature of the service'' are omitted as surplusage. The words ''in reserve'' are substituted for the words ''to be laid up in ordinary in convenient ports'' to conform to modern terminology.

### § 7294. Suspension of construction in case of treaty

In case of a treaty for the limitation of naval armament to which the United States is a signatory, the President may suspend so much of the authorized naval construction as is necessary to bring the naval vessels of the United States within the limitations agreed upon. Such a suspension does not apply to vessels under construction at the time the suspension is made.

(Aug. 10, 1956, ch. 1041, 70A Stat. 449.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 7294 ..... | 34 U.S.C. 498h (as applicable to vessels). | May 17, 1938, ch. 243, § 9 (as applicable to vessels), 52 Stat. 403. |

The words ''the United States would welcome and support an international conference for naval limitations'' are omitted as a declaration of purpose without permanent or general significance. The word ''further'' is omitted since there is no such agreement in existence today. The word ''international'' is omitted as unnecessary since the word ''treaty'' necessarily involves an international understanding. The word ''may'' is substituted for the words ''is hereby authorized and empowered to'' for brevity.

### § 7295. Vessels: under-age

Vessels of the following types are considered under-age for the period after completion indicated below:

(1) Battleships—26 years.

(2) Aircraft carriers—20 years.

(3) Cruisers—20 years.

(4) Submarines—13 years.

(5) Other combatant surface vessels—16 years.

(Aug. 10, 1956, ch. 1041, 70A Stat. 449.)

HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code) | Source (Statutes at Large) |
|---|---|---|
| 7295 ..... | 34 U.S.C. 498g–1. | June 14, 1940, ch. 364, § 7, 54 Stat. 395. |

### § 7296. Combatant surface vessels: notice before reduction in number; preservation of surge capability

(a) NOTICE-AND-WAIT BEFORE REDUCTIONS.—(1) A reduction described in paragraph (2) in the number of combatant surface vessels may only be carried out after—

(A) the Secretary of the Navy submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written notification of the proposed reduction; and

(B) a period of 90 days has expired after the date on which such notification is received.

(2) A reduction described in this paragraph in the number of combatant surface vessels is a reduction—

(A) from 116, or a number greater than 116, to a number less than 116; or

(B) from a number less than 116 to a lesser number.

(b) CONTENT OF NOTIFICATION.—Any notification under subsection (a)(1)(A) shall include the following:

(1) The schedule for the proposed reduction.

(2) The number of vessels that are to comprise the force of combatant surface vessels after the reduction.

(3) A risk assessment for a force of combatant surface vessels of the number specified under paragraph (2) that is based on the same assumptions as were applied in the QDR 2001 combatant surface force risk assessment.

(c) DEFINITIONS.—In this section:

(1) The term ''combatant surface vessels'' means cruisers, destroyers, and frigates that are in active service in the Navy or in active reserve service in the Navy.

(2) The term ''QDR 2001 combatant surface force risk assessment'' means the risk assessment associated with a force of combatant surface vessels numbering 116 that is set forth in the report on the quadrennial defense review submitted to Congress on September 30, 2001, under section 118 of this title.

(Added Pub. L. 107–314, div. A, title X, § 1021(b)(1), Dec. 2, 2002, 116 Stat. 2638; amended Pub. L. 108–136, div. A, title X, § 1011, Nov. 24, 2003, 117 Stat. 1589.)

PRIOR PROVISIONS

A prior section 7296, act Aug. 10, 1956, ch. 1041, 70A Stat. 449, related to availability for other purposes of appropriations for construction or conversion of vessels, prior to repeal by Pub. L. 103–160, div. A, title VIII, § 824(a)(5), Nov. 30, 1993, 107 Stat. 1707.

AMENDMENTS

2003—Subsec. (a)(3). Pub. L. 108–136, § 1011(b)(1), redesignated par. (3) as subsec. (b).

Subsec. (b). Pub. L. 108–136, § 1011(a), (b)(1), (2), redesignated par. (3) of subsec. (a) as subsec. (b), inserted heading and substituted ''subsection (a)(1)(A)'' for ''paragraph (1)(A)'' in introductory provisions, redesignated subpars. (A) to (C) as pars. (1) to (3), respectively, and struck out heading and text of former subsec. (b). Text read as follows: ''Whenever the number of combatant surface vessels is less than 116, the Secretary of the Navy shall maintain on the Naval Vessel Register a sufficient number of combatant surface vessels to enable the Navy to regain a force of combatant surface vessels numbering not less than 116 within 120 days after the date of any decision by the President to increase the number of combatant surface vessels.''

Subsec. (b)(3). Pub. L. 108–136, § 1011(b)(3), substituted ''paragraph (2)'' for ''subparagraph (B)''.

EFFECTIVE DATE

Pub. L. 107–314, div. A, title X, § 1021(c), Dec. 2, 2002, 116 Stat. 2639, provided that: ''The provisions of subparagraph (B) of subsection (a)(1) of section 7296 of title 10, United States Code, as added by subsection (b)(1) of this section, shall apply only with respect to notifications submitted under subparagraph (A) of that subsection on or after January 15, 2003.''

## § 7297. Changing category or type: limitations

Unless they have been specifically made available for the purpose, funds appropriated for the repair or alteration of naval vessels may not be used to make repairs or alterations of any vessel that would change its category or type.

(Aug. 10, 1956, ch. 1041, 70A Stat. 449.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7297 ..... | 34 U.S.C. 490. | June 12, 1948, ch. 452, § 2, 62 Stat. 382. |

## [§ 7298. Repealed. Pub. L. 103–160, div. A, title VIII, § 824(a)(6), Nov. 30, 1993, 107 Stat. 1707]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 449, related to conversion of combatant and auxiliary naval vessels.

## § 7299. Contracts: applicability of Walsh-Healey Act

Each contract for the construction, alteration, furnishing, or equipping of a naval vessel is subject to the Walsh-Healey Act (41 U.S.C. 35 et seq.) unless the President determines that this requirement is not in the interest of national defense.

(Added Pub. L. 104–106, div. A, title VIII, § 815(a), Feb. 10, 1996, 110 Stat. 396.)

REFERENCES IN TEXT

The Walsh-Healey Act, referred to in text, is act June 30, 1936, ch. 881, 49 Stat. 2036, as amended, which is classified generally to sections 35 to 45 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 35 of Title 41 and Tables. See, also, section 262 of Title 29, Labor.

PRIOR PROVISIONS

A prior section 7299, acts Aug. 10, 1956, ch. 1041, 70A Stat. 449; Aug. 25, 1958, Pub. L. 85–747, 72 Stat. 839; Dec. 12, 1980, Pub. L. 96–513, title V, § 513(26), 94 Stat. 2932; Oct. 12, 1982, Pub. L. 97–295, § 1(47), 96 Stat. 1298, directed that each contract for construction, alteration, furnishing, or equipping of naval vessel was subject to the Walsh-Healey Act, unless President determined that such requirement was not in interest of national defense, prior to repeal by Pub. L. 103–355, title III, § 3023(a), Oct. 13, 1994, 108 Stat. 3333.

## § 7299a. Construction of combatant and escort vessels and assignment of vessel projects

(a) The assignment of naval vessel conversion, alteration, and repair projects shall be based on economic and military considerations and may not be restricted by a requirement that certain parts of naval shipwork be assigned to a particular type of shipyard or geographical area or by a similar requirement.

(b) In evaluating bids or proposals for a contract for the overhaul, repair, or maintenance of a naval vessel, the Secretary of the Navy shall, in determining the cost or price of work to be performed in an area outside the area of the homeport of the vessel, consider foreseeable costs of moving the vessel and its crew from the homeport to the outside area and from the outside area back to the homeport at the completion of the contract.

(c)(1) Before issuing a solicitation for a contract for short-term work for the overhaul, repair, or maintenance of a naval vessel, the Secretary of the Navy shall determine if there is adequate competition available among firms able to perform the work at the homeport of the vessel. If the Secretary determines that there is adequate competition among such firms, the Secretary—

(A) shall issue such a solicitation only to firms able to perform the work at the homeport of the vessel; and

(B) may not award such contract to a firm other than a firm that will perform the work at the homeport of the vessel.

(2) Paragraph (1) applies notwithstanding subsection (a) or any other provision of law.

(3) Paragraph (1) does not apply in the case of voyage repairs.

(4) In this subsection, the term ''short-term work'' means work that will be for a period of six months or less.

(Added Pub. L. 97–295, § 1(48)(A), Oct. 12, 1982, 96 Stat. 1298; amended Pub. L. 99–661, div. A, title XII, § 1201(a), Nov. 14, 1986, 100 Stat. 3967; Pub. L. 100–180, div. A, title XI, § 1101, Dec. 4, 1987, 101 Stat. 1145; Pub. L. 101–510, div. A, title XIV, § 1422, Nov. 5, 1990, 104 Stat. 1682; Pub. L. 102–484, div. A, title X, § 1016, Oct. 23, 1992, 106 Stat. 2485.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7299a ..... | 10:7291 (note). | June 11, 1965, Pub. L. 89–37, §§ 302, 303, 79 Stat. 128. |

In subsection (a), the words ''combatant vessels'' are substituted for ''warships'' for consistency in title 10 and because of 1:3. The words ''for which appropriations are authorized by this Act and hereafter'' are omitted as unnecessary.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–484, § 1016(a), (b)(1), redesignated subsec. (b) as (a) and struck out former sub-

sec. (a) which read as follows: ''The distribution of assignments and contracts for the construction of combatant vessels and escort vessels is subject to the Act of March 27, 1934 (ch. 95, 48 Stat. 503), requiring that the first and each succeeding alternate vessel be constructed in a Navy yard. However, the President may direct that a vessel be constructed in a Navy or private yard if the requirement of this subsection is inconsistent with the public interest.''

Subsec. (b). Pub. L. 102–484, § 1016(b)(1), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (a).

Subsecs. (c), (d). Pub. L. 102–484, § 1016(b), redesignated subsec. (d) as (c) and substituted ''subsection (a)'' for ''subsection (b)'' in par. (2). Former subsec. (c) redesignated (b).

1990—Subsec. (d)(3). Pub. L. 101–510 substituted ''apply in the case of voyage repairs.'' for ''apply—

''(A) in the case of voyage repairs; or

''(B) in the case of a vessel that is assigned to the Naval Reserve force and homeported on the West Coast of the United States.''

1987—Subsec. (d). Pub. L. 100–180 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows:

''(1) Notwithstanding subsections (b) and (c), the Secretary may award a contract for short-term work for the overhaul, repair, or maintenance of a naval vessel only to a contractor that is able to perform the work at the homeport of the vessel, if the Secretary determines that adequate competition is available among firms able to perform the work at the homeport of the vessel.

''(2) In this subsection, the term 'short-term work' means work that will be for a period of six months or less.''

1986—Subsecs. (c), (d). Pub. L. 99–661 added subsecs. (c) and (d).

DELEGATION OF AUTHORITY

For delegation of authority of President under subsec. (a) of this section, see section 2 of Ex. Ord. No. 12765, June 11, 1991, 56 F.R. 27401, set out as a note under section 113 of this title.

## § 7300. Contracts for nuclear ships: sales of naval shipyard articles and services to private shipyards

The conditions set forth in section 2208(j)(1)(B) of this title and subsections (a)(1) and (c)(1)(A) of section 2563 of this title shall not apply to a sale by a naval shipyard of articles or services to a private shipyard that is made at the request of the private shipyard in order to facilitate the private shipyard's fulfillment of a Department of Defense contract with respect to a nuclear ship. This section does not authorize a naval shipyard to construct a nuclear ship for the private shipyard, to perform a majority of the work called for in a contract with a private entity, or to provide articles or services not requested by the private shipyard.

(Added Pub. L. 106–65, div. A, title X, § 1016(a), Oct. 5, 1999, 113 Stat. 744; amended Pub. L. 106–398, § 1 [[div. A], title X, § 1033(c)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A–261.)

PRIOR PROVISIONS

A prior section 7300, act Aug. 10, 1956, ch. 1041, 70A, Stat. 450, related to profit limitations on contracts for construction of naval vessels, prior to repeal by Pub. L. 97–86, title IX, § 911(b)(1), Dec. 1, 1981, 95 Stat. 1122.

AMENDMENTS

2000—Pub. L. 106–398 substituted ''section 2563'' for ''section 2553''.

## [§ 7301. Repealed. Pub. L. 103–160, div. A, title VIII, § 824(a)(7), Nov. 30, 1993, 107 Stat. 1707]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 450, related to estimates required for bids on construction of naval vessels.

## [§ 7302. Repealed. Pub. L. 103–355, title III, § 3024(a), Oct. 13, 1994, 108 Stat. 3334]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 451, directed Department of the Navy to construct on U.S. Pacific Coast such vessels as President determined necessary to maintain shipyard facilities there adequate to meet requirements of national defense.

## § 7303. Model Basin; investigation of hull designs

(a) An office or agency in the Department of the Navy designated by the Secretary of the Navy shall conduct at the David W. Taylor Model Basin, Carderock, Maryland, investigations to determine the most suitable shapes and forms for United States vessels and aircraft and investigations of other problems of their design.

(b) The Secretary of the Navy may authorize experiments to be made at the Model Basin for private persons. The costs of experiments made for private persons shall be paid by those persons under regulations prescribed by the Secretary. The results of private experiments are confidential and may not be divulged without the consent of the persons for whom they are made. However, the data obtained from such experiments may be used by the Secretary for governmental purposes, subject to the patent laws of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 451; Pub. L. 89–718, § 41, Nov. 2, 1966, 80 Stat. 1120.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7303 ..... | 5 U.S.C. 430a. | May 6, 1936, ch. 333, 49 Stat. 1263; June 20, 1940, ch. 400, § 1(a), (b), 54 Stat. 492. |

In subsection (a) the authority to purchase a site and construct the model basin is omitted as executed. The words ''David W. Taylor Model Basin, Carderock, Maryland'' are inserted to designate the model basin established under this authority. The words ''investigations to determine'' are substituted for the words ''work of investigating and determining.'' The phrase ''vessels, including aircraft'' is changed to read ''vessels and aircraft'', and the words ''their design'' are substituted for ''ship design''.

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–718 substituted ''An officer or agency of the Department of the Navy designated by the Secretary of the Navy'' for ''The Bureau of Ships''.

## § 7304. Examination of vessels; striking of vessels from Naval Vessel Register

(a) BOARDS OF OFFICERS TO EXAMINE NAVAL VESSELS.—The Secretary of the Navy shall designate boards of naval officers to examine naval vessels, including unfinished vessels, for the purpose of making a recommendation to the Secretary as to which vessels, if any, should be stricken from the Naval Vessel Register. Each vessel shall be examined at least once every three years if practicable.

(b) ACTIONS BY BOARD.—A board designated under subsection (a) shall submit to the Secretary in writing its recommendations as to which vessels, if any, among those it examined should be stricken from the Naval Vessel Register.

(c) ACTION BY SECRETARY.—If the Secretary concurs with a recommendation by a board that a vessel should be stricken from the Naval Vessel Register, the Secretary shall strike the name of that vessel from the Naval Vessel Register.

(Added Pub. L. 103–160, div. A, title VIII, § 824(b), Nov. 30, 1993, 107 Stat. 1708.)

PRIOR PROVISIONS

A prior section 7304, act Aug. 10, 1956, ch. 1041, 70A Stat. 451, related to examination of vessels by board and striking of unfit vessels from Naval Vessel Register, prior to repeal by Pub. L. 103–160, § 824(b).

### § 7305. Vessels stricken from Naval Vessel Register: sale

(a) APPRAISAL OF VESSELS STRICKEN FROM NAVAL VESSEL REGISTER.—The Secretary of the Navy shall appraise each vessel stricken from the Naval Vessel Register under section 7304 of this title.

(b) AUTHORITY TO SELL VESSEL.—If the Secretary considers that the sale of the vessel is in the national interest, the Secretary may sell the vessel. Any such sale shall be in accordance with regulations prescribed by the Secretary for the purposes of this section.

(c) PROCEDURES FOR SALE.—(1) A vessel stricken from the Naval Vessel Register and not subject to disposal under any other law may be sold under this section.

(2) In such a case, the Secretary may—

(A) sell the vessel to the highest acceptable bidder, regardless of the appraised value of the vessel, after publicly advertising the sale of the vessel for a period of not less than 30 days; or

(B) subject to paragraph (3), sell the vessel by competitive negotiation to the acceptable offeror who submits the offer that is most advantageous to the United States (taking into account price and such other factors as the Secretary determines appropriate).

(3) Before entering into negotiations to sell a vessel under paragraph (2)(B), the Secretary shall publish notice of the intention to do so in the Commerce Business Daily sufficiently in advance of initiating the negotiations that all interested parties are given a reasonable opportunity to prepare and submit proposals. The Secretary shall afford an opportunity to participate in the negotiations to all acceptable offerors submitting proposals that the Secretary considers as having the potential to be the most advantageous to the United States (taking into account price and such other factors as the Secretary determines appropriate).

(d) APPLICABILITY.—This section does not apply to a vessel the disposal of which is authorized by subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), if it is to be disposed of under subtitle I of title 40 and such title III.

(Added Pub. L. 103–160, div. A, title VIII, § 824(b), Nov. 30, 1993, 107 Stat. 1708; amended Pub. L. 105–85, div. A, title X, § 1021, Nov. 18, 1997, 111 Stat. 1875; Pub. L. 107–217, § 3(b)(28), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 108–136, div. A, title X, § 1045(a)(7), Nov. 24, 2003, 117 Stat. 1612.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (d), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title III of the Act is classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 7305, acts Aug. 10, 1956, ch. 1041, 70A Stat. 451; Dec. 12, 1980, Pub. L. 96–513, title V, § 513(27), 94 Stat. 2933, related to sale of vessels stricken from Naval Vessel Register, prior to repeal by Pub. L. 103–160, § 824(b).

AMENDMENTS

2003—Subsec. (d). Pub. L. 108–136 inserted "such" before "title III.".

2002—Subsec. (d). Pub. L. 107–217 inserted "subtitle I of title 40 and title III of" before "the Federal Property and Administrative Services Act of 1949" and substituted "(41 U.S.C. 251 et seq.)" for "(40 U.S.C. 471 et seq.)" and "subtitle I of title 40 and title III" for "that Act".

1997—Subsec. (c). Pub. L. 105–85 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

"(c) PROCEDURES FOR SALE.—(1) A vessel stricken from the Naval Vessel Register and not subject to disposal under any other law may be sold under this section. In such a case, the Secretary may sell the vessel to the highest acceptable bidder, regardless of the appraised value of the vessel, after the vessel is publicly advertised for sale for a period of not less than 30 days.

"(2) If the Secretary determines that the bid prices for a vessel received after advertising under paragraph (1) are not acceptable and that readvertising will serve no useful purpose, the Secretary may sell the vessel by negotiation to the highest acceptable bidder if—

"(A) each responsible bidder has been notified of intent to negotiate and has been given a reasonable opportunity to negotiate; and

"(B) the negotiated price is—

"(i) higher than the highest rejected price of any responsible bidder; or

"(ii) reasonable and in the national interest."

EXECUTIVE ORDER NO. 11765

Ex. Ord. No. 11765, Jan. 21, 1974, 39 F.R. 2577, related to sale of vessels of the Navy stricken from Naval Vessel Register pursuant to section 7304 of this title regardless of their appraised value under authority of former subsec. (*l*) of this section.

### § 7305a. Vessels stricken from Naval Vessel Register: contracts for dismantling on net-cost basis

(a) AUTHORITY FOR NET-COST BASIS CONTRACTS.—When the Secretary of the Navy awards a contract for the dismantling of a vessel stricken from the Naval Vessel Register, the Secretary may award the contract on a net-cost basis.

(b) RETENTION BY CONTRACTOR OF PROCEEDS OF SALE OF SCRAP AND REUSABLE ITEMS.—When the Secretary awards a contract on a net-cost basis under subsection (a), the Secretary shall provide in the contract that the contractor may retain

the proceeds from the sale of scrap and reusable items removed from the vessel dismantled under the contract.

(c) DEFINITIONS.—In this section:

(1) The term ''net-cost basis'', with respect to a contract for the dismantling of a vessel, means that the amount to be paid to the contractor under the contract for dismantling and for removal and disposal of hazardous waste material is discounted by the offeror's estimate of the value of scrap and reusable items that the contractor will remove from the vessel during performance of the contract.

(2) The term ''scrap'' means personal property that has no value except for its basic material content.

(3) The term ''reusable item'' means a demilitarized component or a removable portion of a vessel or equipment that the Secretary of the Navy has identified as excess to the needs of the Navy but which has potential resale value on the open market.

(Added Pub. L. 108–375, div. A, title X, § 1011(a), Oct. 28, 2004, 118 Stat. 2038.)

### § 7306. Vessels stricken from Naval Vessel Register; captured vessels: transfer by gift or otherwise

(a) AUTHORITY TO MAKE TRANSFER.—Subject to section 113 of title 40, the Secretary of the Navy may transfer, by gift or otherwise, any vessel stricken from the Naval Vessel Register, or any captured vessel, to—

(1) any State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof;

(2) the District of Columbia; or

(3) any not-for-profit or nonprofit entity.

(b) VESSEL TO BE MAINTAINED IN CONDITION SATISFACTORY TO SECRETARY.—An agreement for the transfer of a vessel under subsection (a) shall include a requirement that the transferee will maintain the vessel in a condition satisfactory to the Secretary.

(c) TRANSFERS TO BE AT NO COST TO UNITED STATES.—Any transfer of a vessel under this section shall be made at no cost to the United States.

(d) CONGRESSIONAL NOTICE-AND-WAIT PERIOD.—(1) A transfer under this section may not take effect until—

(A) the Secretary submits to Congress notice of the proposed transfer; and

(B) 30 days of a session of Congress have expired following the date on which the notice is sent to Congress.

(2) For purposes of paragraph (1)(B)—

(A) the period of a session of Congress is broken only by an adjournment of Congress sine die at the end of the final session of a Congress; and

(B) any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain, or because of an adjournment sine die at the end of the first session of a Congress, shall be excluded in the computation of such 30-day period.

(Added Pub. L. 103–160, div. A, title VIII, § 824(b), Nov. 30, 1993, 107 Stat. 1709; amended Pub. L. 106–65, div. A, title X, § 1011, Oct. 5, 1999, 113 Stat. 739; Pub. L. 107–217, § 3(b)(29), Aug. 21, 2002, 116 Stat. 1297.)

PRIOR PROVISIONS

A prior section 7306, acts Aug. 10, 1956, ch. 1041, 70A Stat. 452; Nov. 8, 1965, Pub. L. 89–348, § 1(10), 79 Stat. 1311; Nov. 2, 1966, Pub. L. 89–718, § 42, 80 Stat. 1120; Nov. 29, 1989, Pub. L. 101–189, div. A, title XVI, § 1616, 103 Stat. 1602, related to use of vessels stricken from the Naval Vessel Register for experimental purposes, prior to repeal by Pub. L. 103–160, § 824(b). See section 7306a of this title.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–217 substituted ''section 113 of title 40'' for ''subsections (c) and (d) of section 602 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474)''.

1999—Subsec. (d). Pub. L. 106–65 amended heading and text of subsec. (d) generally. Text read as follows:

''(1) No transfer under this section takes effect unless—

''(A) notice of the proposal to make the transfer is sent to Congress; and

''(B) 60 days of continuous session of Congress have expired following the date on which such notice is sent to Congress.

''(2) For purposes of paragraph (1)(B), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 60-day period.''

### § 7306a. Vessels stricken from Naval Vessel Register: use for experimental purposes

(a) AUTHORITY.—The Secretary of the Navy may use for experimental purposes any vessel stricken from the Naval Vessel Register.

(b) STRIPPING AND ENVIRONMENTAL REMEDIATION OF VESSEL.—(1) Before using a vessel for an experimental purpose pursuant to subsection (a), the Secretary shall carry out such stripping of the vessel as is practicable and such environmental remediation of the vessel as is required for the use of the vessel for experimental purposes.

(2) Material and equipment stripped from a vessel under paragraph (1) may be sold by the contractor or by a sales agent approved by the Secretary.

(3) Amounts received as proceeds from the stripping of a vessel pursuant to this subsection shall be credited to appropriations available for the procurement of services needed for such stripping and for environmental remediation required for the use of the vessel for experimental purposes. Amounts received in excess of amounts needed for reimbursement of those costs shall be deposited into the account from which the stripping and environmental remediation expenses were incurred and shall be available for stripping and environmental remediation of other vessels to be used for experimental purposes.

(c) USE FOR EXPERIMENTAL PURPOSES DEFINED.—In this section, the term ''use for experimental purposes'', with respect to a vessel, includes use of the vessel in a Navy sink exercise or for target purposes.

(Added Pub. L. 103–160, div. A, title VIII, § 824(b), Nov. 30, 1993, 107 Stat. 1709; amended Pub. L.

108–136, div. A, title X, § 1012, Nov. 24, 2003, 117 Stat. 1589.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 7306 of this title prior to repeal by Pub. L. 103–160.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–136, § 1012(a)(1), inserted ''and Environmental Remediation of'' before ''Vessel'' in heading.

Subsec. (b)(1). Pub. L. 108–136, § 1012(a)(2), inserted before period at end ''and such environmental remediation of the vessel as is required for the use of the vessel for experimental purposes''.

Subsec. (b)(2). Pub. L. 108–136, § 1012(b)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 108–136, § 1012(b)(1), (3), redesignated par. (2) as (3) and substituted ''services needed for such stripping and for environmental remediation required for the use of the vessel for experimental purposes. Amounts received in excess of amounts needed for reimbursement of those costs shall be deposited into the account from which the stripping and environmental remediation expenses were incurred and shall be available for stripping and environmental remediation of other vessels to be used for experimental purposes'' for ''scrapping services needed for such stripping. Amounts received which are in excess of amounts needed for procuring such services shall be deposited into the general fund of the Treasury''.

Subsec. (c). Pub. L. 108–136, § 1012(c), added subsec. (c).

### § 7306b. Vessels stricken from Naval Vessel Register: transfer by gift or otherwise for use as artificial reefs

(a) AUTHORITY TO MAKE TRANSFER.—The Secretary of the Navy may transfer, by gift or otherwise, any vessel stricken from the Naval Vessel Register to any State, Commonwealth, or possession of the United States, or any municipal corporation or political subdivision thereof, for use as provided in subsection (b).

(b) VESSEL TO BE USED AS ARTIFICIAL REEF.—An agreement for the transfer of a vessel under subsection (a) shall require that—

(1) the recipient use, site, construct, monitor, and manage the vessel only as an artificial reef in accordance with the requirements of the National Fishing Enhancement Act of 1984 (33 U.S.C. 2101 et seq.), except that the recipient may use the artificial reef to enhance diving opportunities if that use does not have an adverse effect on fishery resources (as that term is defined in section 2(14)[1] of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(14)); and

(2) the recipient obtain, and bear all responsibility for complying with, applicable Federal, State, interstate, and local permits for using, siting, constructing, monitoring, and managing the vessel as an artificial reef.

(c) PREPARATION OF VESSEL FOR USE AS ARTIFICIAL REEF.—The Secretary shall ensure that the preparation of a vessel transferred under subsection (a) for use as an artificial reef is conducted in accordance with—

(1) the environmental best management practices developed pursuant to section 3504(b) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 16 U.S.C. 1220 note); and

(2) any applicable environmental laws.

(d) COST SHARING.—The Secretary may share with the recipient of a vessel transferred under subsection (a) any costs associated with transferring the vessel under that subsection, including costs of the preparation of the vessel under subsection (c).

(e) NO LIMITATION ON NUMBER OF VESSELS TRANSFERABLE TO PARTICULAR RECIPIENT.—A State, Commonwealth, or possession of the United States, or any municipal corporation or political subdivision thereof, may be the recipient of more than one vessel transferred under subsection (a).

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a transfer authorized by subsection (a) as the Secretary considers appropriate.

(g) CONSTRUCTION.—Nothing in this section shall be construed to establish a preference for the use as artificial reefs of vessels stricken from the Naval Vessel Register in lieu of other authorized uses of such vessels, including the domestic scrapping of such vessels, or other disposals of such vessels, under this chapter or other applicable authority.

(Added Pub. L. 108–136, div. A, title X, § 1013(a), Nov. 24, 2003, 117 Stat. 1590.)

REFERENCES IN TEXT

The National Fishing Enhancement Act of 1984, referred to in subsec. (b)(1), is title II of Pub. L. 98–623, Nov. 8, 1984, 98 Stat. 3394, which enacted chapter 35 (§ 2101 et seq.) of Title 33, Navigation and Navigable Waters, and section 1220d of Title 16, Conservation, and amended sections 1220 to 1220c of Title 16. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of Title 33 and Tables.

### § 7307. Disposals to foreign nations

(a) LARGER OR NEWER VESSELS.—A naval vessel that is in excess of 3,000 tons or that is less than 20 years of age may not be disposed of to another nation (whether by sale, lease, grant, loan, barter, transfer, or otherwise) unless the disposition of that vessel is approved by law enacted after August 5, 1974. A lease or loan of such a vessel under such a law may be made only in accordance with the provisions of chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 et seq.) or chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.).

(b) OTHER VESSELS.—(1) A naval vessel not subject to subsection (a) may be disposed of to another nation (whether by sale, lease, grant, loan, barter, transfer, or otherwise) in accordance with applicable provisions of law, but only after—

(A) the Secretary of the Navy notifies the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives in writing of the proposed disposition; and

(B) 30 days of continuous session of Congress have expired following the date on which such notice is sent to those committees.

(2) For purposes of paragraph (1)(B), the continuity of a session of Congress is broken only

[1] So in original. Probably should be section ''3(14)''.

by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 30-day period.

(Added Pub. L. 103–160, div. A, title VIII, § 824(b), Nov. 30, 1993, 107 Stat. 1709; amended Pub. L. 104–106, div. A, title XV, § 1502(a)(1), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended. Chapter 6 of that Act is classified generally to subchapter VI (§ 2796 et seq.) of chapter 39 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 2 of part II of that Act is classified generally to part II (§ 2311 et seq.) of subchapter II of chapter 32 of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

PRIOR PROVISIONS

A prior section 7307, acts Aug. 10, 1956, ch. 1041, 70A Stat. 452; Aug. 5, 1974, Pub. L. 93–365, title VII, § 702, 88 Stat. 405; Oct. 5, 1976, Pub. L. 94–457, § 2, 90 Stat. 1938; Dec. 12, 1980, Pub. L. 96–513, title V, § 513(28), 94 Stat. 2933; Aug. 8, 1985, Pub. L. 99–83, title I, § 122, 99 Stat. 204; Nov. 5, 1990, Pub. L. 101–510, div. A, title XIV, § 1484(b)(4), 104 Stat. 1716, related to restrictions on disposal of certain Navy ships, prior to repeal by Pub. L. 103–160, § 824(b).

AMENDMENTS

1999—Subsec. (b)(1)(A). Pub. L. 106–65 substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security''.

1996—Subsec. (b)(1)(A). Pub. L. 104–106 substituted ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives'' for ''Committees on Armed Services of the Senate and House of Representatives''.

## § 7308. Chief of Naval Operations: certification required for disposal of combatant vessels

Notwithstanding any other provision of law, no combatant vessel of the Navy may be sold, transferred, or otherwise disposed of unless the Chief of Naval Operations certifies that it is not essential to the defense of the United States.

(Added Pub. L. 103–160, div. A, title VIII, § 824(b), Nov. 30, 1993, 107 Stat. 1710.)

PRIOR PROVISIONS

A prior section 7308, acts Aug. 10, 1956, ch. 1041, 70A Stat. 453; Dec. 12, 1980, Pub. L. 96–513, title V, § 513(29), 94 Stat. 2933; Sept. 29, 1988, Pub. L. 100–456, div. A, title XII, § 1234(a)(6), 102 Stat. 2059; Nov. 5, 1990, Pub. L. 101–510, div. A, title XIV, § 1427, 104 Stat. 1685, related to transfer or gift of obsolete, condemned, and captured vessels, prior to repeal by Pub. L. 103–160, § 824(b).

## § 7309. Construction of vessels in foreign shipyards: prohibition

(a) PROHIBITION.—Except as provided in subsection (b), no vessel to be constructed for any of the armed forces, and no major component of the hull or superstructure of any such vessel, may be constructed in a foreign shipyard.

(b) PRESIDENTIAL WAIVER FOR NATIONAL SECURITY INTEREST.—(1) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so.

(2) The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date on which the notice of the determination is received by Congress.

(c) EXCEPTION FOR INFLATABLE BOATS.—An inflatable boat or a rigid inflatable boat, as defined by the Secretary of the Navy, is not a vessel for the purpose of the restriction in subsection (a).

(Added Pub. L. 103–160, div. A, title VIII, § 824(b), Nov. 30, 1993, 107 Stat. 1710.)

PRIOR PROVISIONS

A prior section 7309, added Pub. L. 97–252, title XI, § 1127(a), Sept. 8, 1982, 96 Stat. 758; amended Pub. L. 98–473, title I, § 101(h) [title VIII, § 8095], Oct. 12, 1984, 98 Stat. 1904, 1941; Pub. L. 99–145, title XIII, § 1303(a)(24)(A), Nov. 8, 1985, 99 Stat. 740; Pub. L. 100–180, div. A, title XI, § 1103, Dec. 4, 1987, 101 Stat. 1146; Pub. L. 100–456, div. A, title XII, § 1224(a), (b)(1), Sept. 29, 1988, 102 Stat. 2054; Pub. L. 101–189, div. A, title XVI, § 1622(c)(8), Nov. 29, 1989, 103 Stat. 1604; Pub. L. 102–190, div. A, title X, § 1017, Dec. 5, 1991, 105 Stat. 1459; Pub. L. 102–484, div. A, title X, § 1012, Oct. 23, 1992, 106 Stat. 2483, related to restrictions on construction and repair of vessels in foreign shipyards, prior to repeal by Pub. L. 103–160, § 824(b).

DELEGATION OF AUTHORITY

For delegation of authority of President under subsec. (b) of this section, see section 3 of Ex. Ord. No. 12765, June 11, 1991, 56 F.R. 27401, set out as a note under section 113 of this title.

## § 7310. Overhaul, repair, etc. of vessels in foreign shipyards: restrictions

(a) VESSELS WITH HOMEPORT IN UNITED STATES.—A naval vessel (or any other vessel under the jurisdiction of the Secretary of the Navy) the homeport of which is in the United States may not be overhauled, repaired, or maintained in a shipyard outside the United States or Guam, other than in the case of voyage repairs.

(b) VESSEL CHANGING HOMEPORTS.—(1) In the case of a naval vessel the homeport of which is not in the United States (or a territory of the United States), the Secretary of the Navy may not during the 15-month period preceding the planned reassignment of the vessel to a homeport in the United States (or a territory of the United States) begin any work for the overhaul, repair, or maintenance of the vessel that is scheduled to be for a period of more than six months.

(2) In the case of a naval vessel the homeport of which is in the United States (or a territory of the United States), the Secretary of the Navy shall during the 15-month period preceding the planned reassignment of the vessel to a homeport not in the United States (or a territory of the United States) perform in the United States (or a territory of the United States) any work for the overhaul, repair, or maintenance of the vessel that is scheduled—

(A) to begin during the 15-month period; and

(B) to be for a period of more than six months.

(Added and amended Pub. L. 103–160, div. A, title III, § 367, title VIII, § 824(b), Nov. 30, 1993, 107 Stat. 1632, 1710; Pub. L. 104–106, div. A, title X, § 1017, Feb. 10, 1996, 110 Stat. 425.)

PRIOR PROVISIONS

A prior section 7310, added Pub. L. 97–295, § 1(49)(A), Oct. 12, 1982, 96 Stat. 1298, related to policy for constructing combatant vessels, prior to repeal by Pub. L. 103–160, § 824(a)(8).

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–106 inserted ''or Guam'' after ''outside the United States''.

1993—Subsec. (b). Pub. L. 103–160, § 367, amended subsec. (b) generally, designating existing provisions as par. (1) and adding par. (2).

## § 7311. Repair or maintenance of naval vessels: handling of hazardous waste

(a) CONTRACTUAL PROVISIONS.—The Secretary of the Navy shall ensure that each contract entered into for work on a naval vessel (other than new construction) includes the following provisions:

(1) IDENTIFICATION OF HAZARDOUS WASTES.—A provision in which the Navy identifies the types and amounts of hazardous wastes that are required to be removed by the contractor from the vessel, or that are expected to be generated, during the performance of work under the contract, with such identification by the Navy to be in a form sufficient to enable the contractor to comply with Federal and State laws and regulations on the removal, handling, storage, transportation, or disposal of hazardous waste.

(2) COMPENSATION.—A provision specifying that the contractor shall be compensated under the contract for work performed by the contractor for duties of the contractor specified under paragraph (3).

(3) STATEMENT OF WORK.—A provision specifying the responsibilities of the Navy and of the contractor, respectively, for the removal (including the handling, storage, transportation, and disposal) of hazardous wastes.

(4) ACCOUNTABILITY FOR HAZARDOUS WASTES.—(A) A provision specifying the following:

(i) In any case in which the Navy is the sole generator of hazardous waste that is removed, handled, stored, transported, or disposed of by the contractor in the performance of the contract, all contracts, manifests, invoices, and other documents related to the removal, handling, storage, transportation, or disposal of such hazardous waste shall bear a generator identification number issued to the Navy pursuant to applicable law.

(ii) In any case in which the contractor is the sole generator of hazardous waste that is removed, handled, stored, transported, or disposed of by the contractor in the performance of the contract, all contracts, manifests, invoices, and other documents related to the removal, handling, storage, transportation, or disposal of such hazardous waste shall bear a generator identification number issued to the contractor pursuant to applicable law.

(iii) In any case in which both the Navy and the contractor are generators of hazardous waste that is removed, handled, stored, transported, or disposed of by the contractor in the performance of the contract, all contracts, manifests, invoices, and other documents related to the removal, handling, storage, transportation, or disposal of such hazardous waste shall bear both a generator identification number issued to the Navy and a generator identification number issued to the contractor pursuant to applicable law.

(B) A determination under this paragraph of whether the Navy is a generator, a contractor is a generator, or both the Navy and a contractor are generators, shall be made in the same manner provided under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) and regulations promulgated under that subtitle.

(b) RENEGOTIATION OF CONTRACT.—The Secretary of the Navy shall renegotiate a contract described in subsection (a) if—

(1) the contractor, during the performance of work under the contract, discovers hazardous wastes different in type or amount from those identified in the contract; and

(2) those hazardous wastes originated on, or resulted from material furnished by the Government for, the naval vessel on which the work is being performed.

(c) REMOVAL OF WASTES.—The Secretary of the Navy shall remove known hazardous wastes from a vessel before the vessel's arrival at a contractor's facility for performance of a contract, to the extent such removal is feasible.

(d) RELATIONSHIP TO SOLID WASTE DISPOSAL ACT.—Nothing in this section shall be construed as altering or otherwise affecting those provisions of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) that relate to generators of hazardous waste. For purposes of this section, any term used in this section for which a definition is provided by the Solid Waste Disposal Act (or regulations promulgated pursuant to such Act) has the meaning provided by that Act or regulations.

(Added Pub. L. 99–661, div. A, title XII, § 1202(a), Nov. 14, 1986, 100 Stat. 3967; amended Pub. L. 101–189, div. A, title XVI, § 1611(a), Nov. 29, 1989, 103 Stat. 1599.)

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsecs. (a)(4)(B) and (d), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, § 2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§ 6901 et seq.) of Title 42, The Public Health and Welfare. Subtitle C of the Solid Waste Disposal Act is classified generally to subchapter III (§ 6921 et seq.) of chapter 82 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

AMENDMENTS

1989—Pub. L. 101–189 amended section generally, substituting subsecs. (a) to (d) for former subsecs. (a) relating to contractual provisions, and (b) relating to renegotiation of contract.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 1611(b) of Pub. L. 101–189 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to any contract for work on a naval vessel (other than new construction) entered into after the end of the 90-day period beginning on the date of the enactment of this Act [Nov. 29, 1989].''

### § 7312. Service craft stricken from Naval Vessel Register; obsolete boats: use of proceeds from exchange or sale

(a) EXCHANGE OR SALE OF SIMILAR ITEMS.—When the Secretary of the Navy sells an obsolete service craft or an obsolete boat, or exchanges such a craft or boat in a transaction for which a similar craft or boat is acquired, the Secretary may retain the proceeds of the sale or the exchange allowance from the exchange, as the case may be, and apply the proceeds of sale or the exchange allowance for any of the following purposes:

(1) For payment, in whole or in part, for a similar service craft or boat acquired as a replacement, as authorized by section 503 of title 40.

(2) For reimbursement, to the extent practicable, of the appropriate accounts of the Navy for the full costs of preparation of such obsolete craft or boat for such sale or exchange.

(3) For deposit to the special account established under subsection (b), to be available in accordance with that subsection.

(b) SPECIAL ACCOUNT.—Amounts retained under subsection (a) that are not applied as provided in paragraph (1) or (2) of that subsection shall be deposited into a special account. Amounts in the account shall be available under subsection (c) without regard to fiscal year limitation. Amounts in the account that the Secretary of the Navy determines are not needed for the purpose stated in subsection (c) shall be transferred at least annually to the General Fund of the Treasury.

(c) COSTS OF PREPARATION OF OBSOLETE SERVICE CRAFT AND BOATS FOR FUTURE SALE OR EXCHANGE.—The Secretary may use amounts in the account under subsection (b) for payment, in whole or in part, for the full costs of preparation of obsolete service craft and obsolete boats for future sale or exchange.

(d) COSTS OF PREPARATION FOR SALE OR EXCHANGE.—In this section, the term ''full costs of preparation'' means the full costs (direct and indirect) incurred by the Navy in preparing an obsolete service craft or an obsolete boat for exchange or sale, including the cost of the following:

(1) Towing.

(2) Storage.

(3) Defueling.

(4) Removal and disposal of hazardous wastes.

(5) Environmental surveys to determine the presence of regulated materials containing polychlorinated biphenyl (PCB) and, if such materials are found, the removal and disposal of such materials.

(6) Other costs related to such preparation.

(e) OBSOLETE SERVICE CRAFT.—For purposes of this section, an obsolete service craft is a service craft that has been stricken from the Naval Vessel Register.

(f) INAPPLICABILITY OF ADVERTISING REQUIREMENT.—Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply to sales of service craft and boats described in subsection (a).

(g) REGULATIONS.—The Secretary of the Navy shall prescribe regulations for the purposes of this section.

(Added Pub. L. 108–375, div. A, title X, § 1012(a)(1), Oct. 28, 2004, 118 Stat. 2039.)

PRIOR PROVISIONS

A prior section 7312, added Pub. L. 100–180, div. A, title XI, § 1102(a)(1), Dec. 4, 1987, 101 Stat. 1145; amended Pub. L. 100–456, div. A, title XII, § 1223, Sept. 29, 1988, 102 Stat. 2054; Pub. L. 101–189, div. A, title XVI, § 1612, Nov. 29, 1989, 103 Stat. 1601, related to progress payments under certain contracts for repair or maintenance of naval vessels, prior to repeal by Pub. L. 103–355, title II, § 2001(j)(1), title X, § 10001, Oct. 13, 1994, 108 Stat. 3303, 3404, effective Oct. 13, 1994, except as otherwise provided. See section 2307(g) of this title.

EFFECTIVE DATE

Pub. L. 108–375, div. A, title X, § 1012(b), Oct. 28, 2004, 118 Stat. 2040, provided that: ''Section 7312 of title 10, United States Code, as added by subsection (a), shall apply with respect to amounts received on or after the date of the enactment of this Act [Oct. 28, 2004] and to amounts received before the date of the enactment of this Act and not obligated as of that date.''

### § 7313. Ship overhaul work: availability of appropriations for unusual cost overruns and for changes in scope of work

(a) UNUSUAL COST OVERRUNS.—(1) Appropriations available to the Department of Defense for a fiscal year may be used for payment of unusual cost overruns incident to ship overhaul, maintenance, and repair for a vessel inducted into an industrial-fund activity or contracted for during a prior fiscal year.

(2) The Secretary of Defense shall notify Congress promptly before an obligation is incurred for any payment under paragraph (1).

(b) CHANGES IN SCOPE OF WORK.—An appropriation available to the Department of Defense for a fiscal year may be used after the otherwise-applicable expiration of the availability for obligation of that appropriation—

(1) for payments to an industrial-fund activity for amounts required because of changes in the scope of work for ship overhaul, maintenance, and repair, in the case of work inducted into the industrial-fund activity during the fiscal year; and

(2) for payments under a contract for amounts required because of changes in the scope of work, in the case of a contract entered into during the fiscal year for ship overhaul, maintenance, and repair.

(Added Pub. L. 100–370, § 1(n)(1), July 19, 1988, 102 Stat. 850.)

HISTORICAL AND REVISION NOTES

Section is based on Pub. L. 99–190, § 101(b) [title VIII, § 8005(j), (k)], Dec. 19, 1985, 99 Stat. 1185, 1203.

In two instances, the source law to be codified by the bill includes provisions that on their face require that the Department of Defense notify Congress of certain actions. These notification requirements were terminated by section 602 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433), which terminated all recurring reporting requirements applicable to the Department of Defense except for those requirements that were specifically exempted in that section. The source law sections are sections 8009(c) and 8005(j) (proviso) of the FY86 defense appropriations Act (Public Law 99–190), enacted December 19, 1985, which would be codified as section 2201 of title 10 (by section 1(d) of the bill) and section 7313(a) of title 10 (by section 1(n) of the bill). In codifying the authorities provided the Department of Defense by these two provisions of law, the committee believes that it is appropriate to reinstate the congressional notification requirements that go with those authorities. These sections were recurring annual appropriation provisions for many years and were made permanent only months before the enactment of the 1986 Reorganization Act. It is the committee's belief that the failure to exempt these provisions from the general reports termination provision was inadvertent and notes that the notification provisions had in fact previously applied to the Department of Defense for many years. The action of the committee restores the status quo as it existed before the Reorganization Act.

CODIFICATION

Another section 7313 of this title was renumbered section 7314.

### § 7314. Overhaul of naval vessels: competition between public and private shipyards

The Secretary of the Navy should ensure, in any case in which the Secretary awards a project for repair, alteration, overhaul, or conversion of a naval vessel following competition between public and private shipyards, that each of the following criteria is met:

(1) The bid of any public shipyard for the award includes—

(A) the full costs to the United States associated with future retirement benefits of civilian employees of that shipyard consistent with computation methodology established by Office of Management and Budget Circular A–76; and

(B) in a case in which equal access to the Navy supply system is not allowed to public and private shipyards, a pro rata share of the costs of the Navy supply system.

(2) Costs applicable to oversight of the contract by the appropriate Navy supervisor of shipbuilding, conversion, and repair are added to the bid of any private shipyard for the purpose of comparability analysis.

(3) The award is made using the results of the comparability analysis.

(Added Pub. L. 100–456, div. A, title XII, § 1225(a)(1), Sept. 29, 1988, 102 Stat. 2054, § 7313; renumbered § 7314, Pub. L. 101–189, div. A, title XVI, § 1622(a), Nov. 29, 1989, 103 Stat. 1604.)

AMENDMENTS

1989—Pub. L. 101–189 renumbered section 7313 of this title as this section.

EFFECTIVE DATE

Section 1225(b) of Pub. L. 100–456 provided that: ''Section 7313 [now 7314] of title 10, United States Code, as added by subsection (a), applies to any award by the Secretary of the Navy made after the end of the 30-day period beginning on the date of the enactment of this Act [Sept. 29, 1988] for repair, alteration, overhaul, or conversion of a naval vessel following competition between public and private shipyards.''

### § 7315. Preservation of Navy shipbuilding capability

(a) SHIPBUILDING CAPABILITY PRESERVATION AGREEMENTS.—The Secretary of the Navy may enter into an agreement, to be known as a ''shipbuilding capability preservation agreement'', with a shipbuilder under which the cost reimbursement rules described in subsection (b) shall be applied to the shipbuilder under a Navy contract for the construction of a ship. Such an agreement may be entered into in any case in which the Secretary determines that the application of such cost reimbursement rules would facilitate the achievement of the policy objectives set forth in section 2501(b) of this title.

(b) COST REIMBURSEMENT RULES.—The cost reimbursement rules applicable under an agreement entered into under subsection (a) are as follows:

(1) The Secretary of the Navy shall, in determining the reimbursement due a shipbuilder for its indirect costs of performing a contract for the construction of a ship for the Navy, allow the shipbuilder to allocate indirect costs to its private sector work only to the extent of the shipbuilder's allocable indirect private sector costs, subject to paragraph (3).

(2) For purposes of paragraph (1), the allocable indirect private sector costs of a shipbuilder are those costs of the shipbuilder that are equal to the sum of the following:

(A) The incremental indirect costs attributable to such work.

(B) The amount by which the revenue attributable to such private sector work exceeds the sum of—

(i) the direct costs attributable to such private sector work; and

(ii) the incremental indirect costs attributable to such private sector work.

(3) The total amount of allocable indirect private sector costs for a contract covered by the agreement may not exceed the amount of indirect costs that a shipbuilder would have allocated to its private sector work during the period covered by the agreement in accordance with the shipbuilder's established accounting practices.

(c) AUTHORITY TO MODIFY COST REIMBURSEMENT RULES.—The cost reimbursement rules set forth in subsection (b) may be modified by the Secretary of the Navy for a particular agreement if the Secretary determines that modifications are appropriate to the particular situation to facilitate achievement of the policy set forth in section 2501(b) of this title.

(d) APPLICABILITY.—(1) An agreement entered into with a shipbuilder under subsection (a) shall apply to each of the following Navy contracts with the shipbuilder:

(A) A contract that is in effect on the date on which the agreement is entered into.

(B) A contract that is awarded during the term of the agreement.

(2) In a shipbuilding capability preservation agreement applicable to a shipbuilder, the Secretary may agree to apply the cost reimbursement rules set forth in subsection (b) to allocations of indirect costs to private sector work performed by the shipbuilder only with respect to costs that the shipbuilder incurred on or after November 18, 1997, under a contract between the shipbuilder and a private sector customer of the shipbuilder that became effective on or after January 26, 1996.

(Added Pub. L. 105–85, div. A, title X, § 1027(a)(1), Nov. 18, 1997, 111 Stat. 1878; amended Pub. L. 106–65, div. A, title X, § 1066(a)(29), Oct. 5, 1999, 113 Stat. 772.)

AMENDMENTS

1999—Subsec. (d)(2). Pub. L. 106–65 substituted ''November 18, 1997,'' for ''the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998''.

PROCEDURES FOR APPLICATIONS AND FOR CONSIDERATION OF AGREEMENTS

Section 1027(b) of Pub. L. 105–85 provided that: ''Not later than 30 days after the date of the enactment of this Act [Nov. 18, 1997], the Secretary of the Navy shall establish application procedures and procedures for expeditious consideration of shipbuilding capability preservation agreements as authorized by section 7315 of title 10, United States Code, as added by subsection (a).''

### § 7316. Support for transfers of decommissioned vessels and shipboard equipment

(a) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of the Navy may provide an entity described in subsection (b) with assistance in support of a transfer of a vessel or shipboard equipment described in such subsection that is being executed under section 2572, 7306, 7307, or 7545 of this title, or under any other authority.

(b) COVERED VESSELS AND EQUIPMENT.—The authority under this section applies—

(1) in the case of a decommissioned vessel that—

(A) is owned and maintained by the Navy, is located at a Navy facility, and is not in active use; and

(B) is being transferred to an entity designated by the Secretary of the Navy or by law to receive transfer of the vessel; and

(2) in the case of any shipboard equipment that—

(A) is on a vessel described in paragraph (1)(A); and

(B) is being transferred to an entity designated by the Secretary of the Navy or by law to receive transfer of the equipment.

(c) REIMBURSEMENT.—The Secretary may require a recipient of assistance under subsection (a) to reimburse the Navy for amounts expended by the Navy in providing the assistance.

(d) DEPOSIT OF FUNDS RECEIVED.—Funds received in a fiscal year under subsection (c) shall be credited to the appropriation available for such fiscal year for operation and maintenance for the office of the Navy managing inactive ships, shall be merged with other sums in the appropriation that are available for such office, and shall be available for the same purposes and period as the sums with which merged.

(Added Pub. L. 108–136, div. A, title X, § 1015(a), Nov. 24, 2003, 117 Stat. 1591.)

## [CHAPTER 635—REPEALED]

### [§§ 7341 to 7345. Repealed. Pub. L. 103–160, div. A, title VIII, § 824(a)(9), Nov. 30, 1993, 107 Stat. 1708]

Section 7341, act Aug. 10, 1956, ch. 1041, 70A Stat. 453, related to authorized number of naval airplanes and lighter-than-air crafts.

Section 7342, act Aug. 10, 1956, ch. 1041, 70A Stat. 454, related to percentage of naval aircraft required to be constructed or manufactured in United States plants.

Section 7343, act Aug. 10, 1956, ch. 1041, 70A Stat. 454, related to manufacture of naval aircraft at plants owned by United States under certain circumstances.

Section 7344, act Aug. 10, 1956, ch. 1041, 70A Stat. 454, related to suspension of naval aircraft construction in case of treaty for limitation of naval armament.

Section 7345, added Pub. L. 101–189, div. A, title I, § 153(a)(1), Nov. 29, 1989, 103 Stat. 1387, related to submission of annual reports to Armed Services and Appropriations Committees of Senate and House of Representatives addressing aircraft requirements of the Navy.

## CHAPTER 637—SALVAGE FACILITIES

Sec.
7361. Authority to provide for necessary salvage facilities.
7362. Acquisition and transfer of vessels and equipment.
7363. Settlement of claims.
7364. Disposition of receipts.

AMENDMENTS

1996—Pub. L. 104–106, div. A, title X, § 1015, Feb. 10, 1996, 110 Stat. 424, amended analysis generally, adding items 7361 to 7364 and striking out former items 7361 ''Naval salvage facilities: contracts for commercial facilities'', 7362 ''Commercial use of naval facilities'', 7363 ''Transfer of equipment: contract provisions'', 7365 ''Settlement of claims'', and 7367 ''Disposition of receipts''.

1994—Pub. L. 103–355, title II, § 2001(j)(3)(B), Oct. 13, 1994, 108 Stat. 3303, struck out item 7364 ''Advancement of funds for salvage operations''.

1993—Pub. L. 103–160, div. A, title VIII, § 828(a)(8), Nov. 30, 1993, 107 Stat. 1713, struck out item 7366 ''Limitation on appropriations''.

### § 7361. Authority to provide for necessary salvage facilities

(a) AUTHORITY.—The Secretary of the Navy may provide, by contract or otherwise, necessary salvage facilities for public and private vessels.

(b) COORDINATION WITH SECRETARY OF HOMELAND SECURITY.—The Secretary shall submit to the Secretary of Homeland Security for comment each proposed contract for salvage facilities that affects the interests of the Department of Homeland Security.

(c) LIMITATION.—The Secretary of the Navy may enter into a term contract under subsection (a) only if the Secretary determines that available commercial salvage facilities are inadequate to meet the requirements of national defense.

(d) PUBLIC NOTICE.—The Secretary may not enter into a contract under subsection (a) until the Secretary has provided public notice of the intent to enter into such a contract.

(e) SALVAGE FACILITIES DEFINED.—In this section, the term ''salvage facilities'' includes equipment and gear utilized to prevent, abate, or minimize damage to the environment.

(Added Pub. L. 104–106, div. A, title X, § 1015, Feb. 10, 1996, 110 Stat. 424; amended Pub. L. 107–296, title XVII, § 1704(b)(1), (6), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title III, § 315(a), Nov. 24, 2003, 117 Stat. 1431.)

PRIOR PROVISIONS

A prior section 7361, acts Aug. 10, 1956, ch. 1041, 70A Stat. 455; Aug. 6, 1981, Pub. L. 97–31, § 12(3)(D), 95 Stat. 154, authorized Secretary of the Navy to provide for necessary salvage facilities for public and private vessels, prior to the general amendment of this chapter by Pub. L. 104–106.

AMENDMENTS

2003—Subsec. (e). Pub. L. 108–136 added subsec. (e).

2002—Subsec. (b). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation'' in heading and in two places in text.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

### § 7362. Acquisition and transfer of vessels and equipment

(a) AUTHORITY.—The Secretary of the Navy may acquire or transfer for operation by private salvage companies such vessels and equipment as the Secretary considers necessary.

(b) AGREEMENT ON USE.—Before any salvage vessel or salvage gear is transferred by the Secretary to a private party, the private party must agree in writing with the Secretary that the vessel or gear will be used to support organized offshore salvage facilities for a period of as many years as the Secretary considers appropriate.

(c) REFERENCE TO AUTHORITY TO ADVANCE FUNDS FOR IMMEDIATE SALVAGE OPERATIONS.—For authority for the Secretary of the Navy to advance to private salvage companies such funds as the Secretary considers necessary to provide for the immediate financing of salvage operations, see section 2307(g)(2) of this title.

(Added Pub. L. 104–106, div. A, title X, § 1015, Feb. 10, 1996, 110 Stat. 424.)

PRIOR PROVISIONS

A prior section 7362, act Aug. 10, 1956, ch. 1041, 70A Stat. 455, related to commercial use of naval facilities, prior to the general amendment of this chapter by Pub. L. 104–106.

### § 7363. Settlement of claims

(a) AUTHORITY TO SETTLE CLAIM.—The Secretary of the Navy may settle any claim by the United States for salvage services rendered by the Department of the Navy and may receive payment of any such claim.

(b) SALVAGE SERVICES DEFINED.—In this section, the term ''salvage services'' includes services performed in connection with a marine salvage operation that are intended to prevent, abate, or minimize damage to the environment.

(Added Pub. L. 104–106, div. A, title X, § 1015, Feb. 10, 1996, 110 Stat. 425; amended Pub. L. 108–136, div. A, title III, § 315(b), Nov. 24, 2003, 117 Stat. 1431.)

PRIOR PROVISIONS

A prior section 7363, act Aug. 10, 1956, ch. 1041, 70A Stat. 455, related to contract provisions for transfer of Navy equipment to private parties, prior to the general amendment of this chapter by Pub. L. 104–106.

AMENDMENTS

2003—Pub. L. 108–136 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

### § 7364. Disposition of receipts

Amounts received under this chapter shall be credited to appropriations for maintaining naval salvage facilities. However, any amount received under this chapter in any fiscal year in excess of naval salvage costs incurred by the Navy during that fiscal year shall be deposited into the general fund of the Treasury.

(Added Pub. L. 104–106, div. A, title X, § 1015, Feb. 10, 1996, 110 Stat. 425.)

PRIOR PROVISIONS

A prior section 7364, act Aug. 10, 1956, ch. 1041, 70A Stat. 455, related to advancement of funds by the Secretary of the Navy to private companies for salvage operations, prior to repeal by Pub. L. 103–355, title II, § 2001(j)(1), Oct. 13, 1994, 108 Stat. 3303. See section 2307(g) of this title.

A prior section 7365, acts Aug. 10, 1956, ch. 1041, 70A Stat. 456; Aug. 29, 1972, Pub. L. 92–417, § 1(4), 86 Stat. 654, related to settlement of claims, prior to the general amendment of this chapter by Pub. L. 104–106. See section 7363 of this title.

A prior section 7366, act Aug. 10, 1956, ch. 1041, 70A Stat. 456, related to limitation on appropriations for naval salvage facilities, prior to repeal by Pub. L. 103–160, div. A, title VIII, § 824(a)(10), Nov. 30, 1993, 107 Stat. 1708.

A prior section 7367, act Aug. 10, 1956, ch. 1041, 70A Stat. 456, related to disposition of receipts, prior to the general amendment of this chapter by Pub. L. 104–106. See section 7364 of this title.

## CHAPTER 639—UNITED STATES NAVAL OBSERVATORY

Sec.
[7391 to 7394. Repealed.]
7395. Naval Observatory: administration.
7396. Naval Observatory: exchange of information with foreign offices.

AMENDMENTS

1982—Pub. L. 97–295, § 1(50)(F), Oct. 12, 1982, 96 Stat. 1300, struck out ''NAVAL OCEANOGRAPHIC OFFICE AND'' from chapter heading.

Pub. L. 97–295, § 1(50)(B), Oct. 12, 1982, 96 Stat. 1299, struck out items 7391 ''United States Naval Oceanographic Office: establishment and duties'', 7392 ''United States Naval Oceanographic Office: maps, charts and books'', 7393 ''United States Naval Oceanographic Office: pilot charts'', and 7394 ''Price of maps, charts, and navigational publications''.

1964—Pub. L. 88–436, § 1(b), Aug. 14, 1964, 78 Stat. 436, substituted ''navigational publications'' for ''nautical books'' in item 7394.

1962—Pub. L. 87–533, § 1(a)(1), (b), July 10, 1962, 76 Stat. 154, 155, substituted ''United States Naval Oceanographic'' for ''Hydrographic'' in chapter heading and in items 7391 to 7393.

### [§§ 7391 to 7394. Repealed. Pub. L. 97–295, § 1(50)(A), Oct. 12, 1982, 96 Stat. 1299]

Section 7391, acts Aug. 10, 1956, ch. 1041, 70A Stat. 456; July 10, 1962, Pub. L. 87–533, § 1(a)(2), 76 Stat. 154, pro-

vided for a United States Naval Oceanographic Office attached to the Office of the Chief of Naval Operations which would provide navigational aids, charts, books, and manuals, and was reenacted as former section 2791 of this title.

Section 7392, acts Aug. 10, 1956, ch. 1041, 70A Stat. 456; July 10, 1962, Pub. L. 87–533, §1(a)(3), 76 Stat. 154, provided that the Secretary of the Navy may have the United States Naval Oceanographic Office prepare navigational aids, charts, and books, and that he may publish and distribute such materials and buy copyrights of existing navigational aids, charts, and books, and was reenacted as section 451 of this title.

Section 7393, acts Aug. 10, 1956, ch. 1041, 70A Stat. 456; July 10, 1962, Pub. L. 87–533, §1(a)(4), 76 Stat. 154, directed that certain identifying information be printed on United States Naval Oceanographic pilot charts, and that the Department of Commerce's Weather Bureau provide the Naval Oceanographic Office with data necessary for their preparation, and was reenacted as section 452 of this title.

Section 7394, acts Aug. 10, 1956, ch. 1041, 70A Stat. 457; July 10, 1962, Pub. L. 87–533, §1(a)(5), 76 Stat. 154; Aug. 14, 1964, Pub. L. 88–436, §1(a), 78 Stat. 443, directed that publications by the Naval Oceanographic Office be sold under regulations of the Secretary of the Navy, and that proceeds be covered into the Treasury, and was reenacted as section 453 of this title.

### § 7395. Naval Observatory: administration

(a) The Naval Observatory shall be attached to the Office of the Chief of Naval Operations.

(b) The Superintendent of the Naval Observatory shall be detailed from officers in the line of the Navy serving in the grade of captain or above.

(c) The Secretary of the Navy may detail any officer of the Navy, competent for that duty, to supervise the Nautical Almanac.

(Aug. 10, 1956, ch. 1041, 70A Stat. 457.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7395 ..... | 5 U.S.C. 133y–16 (note). | Reorganization Plan No. 3 of 1946, Part III, §301, 60 Stat. 1099. |
| | 5 U.S.C. 461. | Mar. 3, 1901, ch. 852, 31 Stat. 1122 (2d par., last sentence). |
| | 5 U.S.C. 463. | R.S. 436; June 29, 1949, ch. 278, 63 Stat. 300 (2d par.). |

In subsection (a) the words ''together with their respective functions, are hereby transferred from the Bureau of Naval Personnel, Department of the Navy'' are omitted as executed. The words ''attached to'' are substituted for the words ''and shall be administered, subject to the direction and control of the Secretary of the Navy, under the Chief of Naval Operations'' for brevity. All orders issued by the Chief of Naval Operations in performing the duties assigned to him are issued under the authority of the Secretary of the Navy.

In subsection (b) the words ''until further legislation by Congress'' are omitted as surplusage.

In subsection (c) the word ''detail'' is substituted for the word ''place''. The words ''in charge'' are omitted as surplusage. The word ''duty'' is substituted for the word ''service'' for clarity.

### § 7396. Naval Observatory: exchange of information with foreign offices

(a) The Secretary of the Navy may arrange to exchange data with foreign almanac offices to reduce the duplication of work in preparing the different national nautical and astronomical almanacs and make available for publication a larger amount of data useful to navigators and astronomers. Each such arrangement shall be made terminable on one year's notice.

(b) The work of the Nautical Almanac Office shall be so conducted that in an emergency the part of the work intended for the use of navigators may be computed by the force of the office without foreign cooperation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 457; Pub. L. 95–357, Sept. 8, 1978, 92 Stat. 591.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7396 ..... | 5 U.S.C. 464. | Aug. 22, 1912, ch. 335, 37 Stat. 342 (2d par.). |

In subsection (a) the words ''as he may from time to time deem desirable with a view'' are omitted as surplusage. The words ''a larger amount of data useful'' are substituted for the words ''increase the total data which may be of use'' for clarity.

In subsection (b) the words ''during the continuance of any such arrangement'' are omitted as surplusage. The third proviso of 5 U.S.C. 464 is omitted as obsolete.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–357 struck out ''in the American Ephemeris and Nautical Almanac'' after ''for publication''.

## CHAPTER 641—NAVAL PETROLEUM RESERVES

Sec.
7420. Definitions.
7421. Jurisdiction and control.
7422. Administration.
7423. Periodic re-examination of production requirements.
7424. Protection of oil reserves; contracts for conservation.
7425. Acquisition by condemnation and purchase.
[7426. Repealed.]
7427. Cooperative or unit plans in the naval petroleum reserves.
7428. Agreements and leases: provision for change.
7429. Re-lease of certain lands: lessee's preferential right.
7430. Disposition of products.
7431. Requirements as to consultation and approval.
7432. Authorizations of appropriations.
7433. Disposition of royalties.
[7434. Repealed.]
7435. Foreign interest.
7436. Regulations.
7437. Violations by lessee.
7438. Rifle, Colorado, plant; possession, use, and transfer of.
7439. Certain oil shale reserves: transfer of jurisdiction and petroleum exploration, development, and production.

AMENDMENTS

2000—Pub. L. 106–398, §1 [div. C, title XXXIV, §3402(b)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A–484, struck out item 7426 ''Cooperative or unit plans affecting Naval Petroleum Reserve Numbered 1''.

1997—Pub. L. 105–85, div. C, title XXXIV, §3404(b), Nov. 18, 1997, 111 Stat. 2061, added item 7439.

1996—Pub. L. 104–201, div. A, title X, §1074(a)(19), Sept. 23, 1996, 110 Stat. 2660, struck out item 7434 ''Annual report to congressional committees''.

Pub. L. 104–106, div. A, title XV, §§1502(a)(28)(B), 1503(b)(4), Feb. 10, 1996, 110 Stat. 506, 513, substituted

''Agreements'' for ''Agreement'' in item 7428 and ''congressional committees'' for ''Armed Services Committees'' in item 7434.

1990—Pub. L. 101–510, div. A, title XIII, § 1331(9), Nov. 5, 1990, 104 Stat. 1673, amended item 7434 generally, substituting ''Annual report'' for ''Quarterly reports''.

1980—Pub. L. 96–513, title V, § 513(32)(C), Dec. 12, 1980, 94 Stat. 2933, substituted ''Naval Petroleum Reserve Numbered'' for ''naval petroleum reserve numbered'' in item 7426.

1979—Pub. L. 96–137, § 3(b)(2), Dec. 12, 1979, 93 Stat. 1062, substituted ''Authorizations of appropriations'' for ''Naval petroleum reserve special account'' in item 7432.

1976—Pub. L. 94–258, title II, § 201(20), Apr. 5, 1976, 90 Stat. 313, added item 7420 and substituted ''Naval petroleum reserve special account'' for ''Expenditures; appropriations chargeable'' in item 7432.

1962—Pub. L. 87–796, § 1(13), Oct. 11, 1962, 76 Stat. 906, substituted ''Rifle, Colorado, plant; possession, use, and transfer of'' for ''Exclusion of naval oil shale reserves'' in item 7438.

## § 7420. Definitions

In this chapter:

(1) The term ''national defense'' includes the needs of, and the planning and preparedness to meet, essential defense, industrial, and military emergency energy requirements relative to the national safety, welfare, and economy, particularly resulting from foreign military or economic actions.

(2) The term ''naval petroleum reserves'' means the naval petroleum and oil shale reserves established by this chapter, including Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive order of the President, dated September 2, 1912; Naval Petroleum Reserve Numbered 2 (Buena Vista), located in Kern County, California, established by Executive order of the President, dated December 13, 1912; Naval Petroleum Reserve Numbered 3 (Teapot Dome), located in Wyoming, established by Executive order of the President, dated April 30, 1915; Oil Shale Reserve Numbered 1, located in Colorado, established by Executive order of the President, dated December 6, 1916, as amended by Executive order dated June 12, 1919; Oil Shale Reserve Numbered 2, located in Utah, established by Executive order of the President, dated December 6, 1916; and Oil Shale Reserve Numbered 3, located in Colorado, established by Executive order of the President, dated September 27, 1924.

(3) The term ''petroleum'' includes crude oil, gases (including natural gas), natural gasoline, and other related hydrocarbons, oil shale, and the products of any of such resources.

(4) The term ''Secretary'' means the Secretary of Energy.

(5) The term ''small refiner'' means an owner of a refinery or refineries (including refineries not in operation) who qualifies as a small business refiner under the rules and regulations of the Small Business Administration.

(6) The term ''maximum efficient rate'' means the maximum sustainable daily oil or gas rate from a reservoir which will permit economic development and depletion of that reservoir without detriment to the ultimate recovery.

(Added Pub. L. 94–258, title II, § 201(1), Apr. 5, 1976, 90 Stat. 307; amended Pub. L. 96–513, title V, § 513(30), Dec. 12, 1980, 94 Stat. 2933; Pub. L. 100–26, § 7(k)(5), Apr. 21, 1987, 101 Stat. 284.)

AMENDMENTS

1987—Pub. L. 100–26 substituted colon for dash at end of introductory provisions, inserted ''The term'' in each par., substituted periods for semicolons in pars. (1) to (4) and period for ''; and'' in par. (5).

1980—Pub. L. 96–513 in introductory text struck out ''(a)'' before ''In'', in par. (2) struck out provisions relating to Naval Petroleum Reserve Numbered 4, and in par. (4) substituted ''Energy'' for ''the Navy''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

NAVAL PETROLEUM RESERVE

Pub. L. 109–58, title III, subtitle D, Aug. 8, 2005, 119 Stat. 694, provided that:

''SEC. 331. TRANSFER OF ADMINISTRATIVE JURISDICTION AND ENVIRONMENTAL REMEDIATION, NAVAL PETROLEUM RESERVE NUMBERED 2, KERN COUNTY, CALIFORNIA.

''(a) ADMINISTRATION JURISDICTION TRANSFER TO SECRETARY OF THE INTERIOR.—Effective on the date of the enactment of this Act [Aug. 8, 2005], administrative jurisdiction and control over all public domain lands included within Naval Petroleum Reserve Numbered 2 located in Kern County, California (other than the lands specified in subsection (b)), are transferred from the Secretary to the Secretary of the Interior for management, subject to subsection (c), in accordance with the laws governing management of the public lands, and the regulations promulgated under such laws, including the Mineral Leasing Act (30 U.S.C. 181 et seq.) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

''(b) EXCLUSION OF CERTAIN RESERVE LANDS.—The transfer of administrative jurisdiction made by subsection (a) does not include the following lands:

''(1) That portion of Naval Petroleum Reserve Numbered 2 authorized for disposal under section 3403(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 10 U.S.C. 7420 note).

''(2) That portion of the surface estate of Naval Petroleum Reserve Numbered 2 conveyed to the City of Taft, California, by section 333.

''(c) PURPOSE OF TRANSFER.—

''(1) PRODUCTION OF HYDROCARBON RESOURCES.—Notwithstanding any other provision of law, the principal purpose of the lands subject to transfer under subsection (a) is the production of hydrocarbon resources, and the Secretary of the Interior shall manage the lands in a fashion consistent with this purpose. In managing the lands, the Secretary of the Interior shall regulate operations to prevent unnecessary degradation and to provide for ultimate economic recovery of the resources.

''(2) DISPOSAL AUTHORITY AND SURFACE USE.—The Secretary of the Interior may make disposals of lands subject to transfer under subsection (a), or allow commercial or non-profit surface use of such lands, not to exceed 10 acres each, so long as the disposals or surface uses do not materially interfere with the ultimate economic recovery of the hydrocarbon resources of such lands. All revenues received from the disposal of lands under this paragraph or from allowing the surface use of such lands shall be deposited in the Naval Petroleum Reserve Numbered 2 Lease Revenue Account established by section 332.

''(d) CONFORMING AMENDMENT.—[Amended section 3403 of Pub. L. 105–261, set out below.]

''SEC. 332. NAVAL PETROLEUM RESERVE NUMBERED 2 LEASE REVENUE ACCOUNT.

''(a) ESTABLISHMENT.—There is established in the Treasury a special deposit account to be known as the 'Naval Petroleum Reserve Numbered 2 Lease Revenue Account' (in this section referred to as the 'lease revenue account'). The lease revenue account is a revolving account, and amounts in the lease revenue account shall be available to the Secretary of the Interior, without further appropriation, for the purposes specified in subsection (b).

''(b) PURPOSES OF ACCOUNT.—

''(1) ENVIRONMENTAL-RELATED COSTS.—The lease revenue account shall be the sole and exclusive source of funds to pay for any and all costs and expenses incurred by the United States for—

''(A) environmental investigations (other than any environmental investigations that were conducted by the Secretary before the transfer of the Naval Petroleum Reserve Numbered 2 lands under section 331), remediation, compliance actions, response, waste management, impediments, fines or penalties, or any other costs or expenses of any kind arising from, or relating to, conditions existing on or below the Naval Petroleum Reserve Numbered 2 lands, or activities occurring or having occurred on such lands, on or before the date of the transfer of such lands; and

''(B) any future remediation necessitated as a result of pre-transfer and leasing activities on such lands.

''(2) TRANSITION COSTS.—The lease revenue account shall also be available for use by the Secretary of the Interior to pay for transition costs incurred by the Department of the Interior associated with the transfer and leasing of the Naval Petroleum Reserve Numbered 2 lands.

''(c) FUNDING.—The lease revenue account shall consist of the following:

''(1) Notwithstanding any other provision of law, for a period of three years after the date of the transfer of the Naval Petroleum Reserve Numbered 2 lands under section 331, the sum of $500,000 per year of revenue from leases entered into before that date, including bonuses, rents, royalties, and interest charges collected pursuant to the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et. seq.), derived from the Naval Petroleum Reserve Numbered 2 lands, shall be deposited into the lease revenue account.

''(2) Subject to subsection (d), all revenues derived from leases on Naval Petroleum Reserve Numbered 2 lands issued on or after the date of the transfer of such lands, including bonuses, rents, royalties, and interest charges collected pursuant to the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), shall be deposited into the lease revenue account.

''(d) LIMITATION.—Funds in the lease revenue account shall not exceed $3,000,000 at any one time. Whenever funds in the lease revenue account are obligated or expended so that the balance in the account falls below that amount, lease revenues referred to in subsection (c)(2) shall be deposited in the account to maintain a balance of $3,000,000.

''(e) TERMINATION OF ACCOUNT.—At such time as the Secretary of the Interior certifies that remediation of all environmental contamination of Naval Petroleum Reserve Numbered 2 lands in existence as of the date of the transfer of such lands under section 331 has been successfully completed, that all costs and expenses of investigation, remediation, compliance actions, response, waste management, impediments, fines, or penalties associated with environmental contamination of such lands in existence as of the date of the transfer have been paid in full, and that the transition costs of the Department of the Interior referred to in subsection (b)(2) have been paid in full, the lease revenue account shall be terminated and any remaining funds shall be distributed in accordance with subsection (f).

''(f) DISTRIBUTION OF REMAINING FUNDS.—Section 35 of the Mineral Leasing Act (30 U.S.C. 191) shall apply to the payment and distribution of all funds remaining in the lease revenue account upon its termination under subsection (e).

''SEC. 333. LAND CONVEYANCE, PORTION OF NAVAL PETROLEUM RESERVE NUMBERED 2, TO CITY OF TAFT, CALIFORNIA.

''(a) CONVEYANCE.—Effective on the date of the enactment of this Act [Aug. 8, 2005], there is conveyed to the City of Taft, California (in this section referred to as the 'City'), all surface right, title, and interest of the United States in and to a parcel of real property consisting of approximately 220 acres located in the NE¼, the NE¼ of the NW¼, and the N½ of the SE¼ of the NW¼ of section 18, township 32 south, range 24 east, Mount Diablo meridian, Kern County, California.

''(b) CONSIDERATION.—The conveyance under subsection (a) is made without the payment of consideration by the City.

''(c) TREATMENT OF EXISTING RIGHTS.—The conveyance under subsection (a) is subject to valid existing rights, including Federal oil and gas lease SAC–019577.

''(d) TREATMENT OF MINERALS.—All coal, oil, gas, and other minerals within the lands conveyed under subsection (a) are reserved to the United States, except that the United States and its lessees, licensees, permittees, or assignees shall have no right of surface use or occupancy of the lands. Nothing in this subsection shall be construed to require the United States or its lessees, licensees, permittees, or assignees to support the surface of the conveyed lands.

''(e) INDEMNIFY AND HOLD HARMLESS.—The City shall indemnify, defend, and hold harmless the United States for, from, and against, and the City shall assume all responsibility for, any and all liability of any kind or nature, including all loss, cost, expense, or damage, arising from the City's use or occupancy of, or operations on, the land conveyed under subsection (a), whether such use or occupancy of, or operations on, occurred before or occur after the date of the enactment of this Act.

''(f) INSTRUMENT OF CONVEYANCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall execute, file, and cause to be recorded in the appropriate office a deed or other appropriate instrument documenting the conveyance made by this section.

''SEC. 334. REVOCATION OF LAND WITHDRAWAL.

''Effective on the date of the enactment of this Act [Aug. 8, 2005], the Executive Order of December 13, 1912, which created Naval Petroleum Reserve Numbered 2, is revoked in its entirety.''

DISPOSAL OF NAVAL PETROLEUM RESERVES

Pub. L. 105–261, div. C, title XXXIV, Oct. 17, 1998, 112 Stat. 2265, as amended by Pub. L. 106–398, §1 [div. C, title XXXIV, §3403(a), (c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–484, 1654A–489; Pub. L. 108–204, title I, §129, Mar. 2, 2004, 118 Stat. 547; Pub. L. 109–58, title III, §331(d), Aug. 8, 2005, 119 Stat. 695, provided that:

''SEC. 3401. DEFINITIONS.

''In this title:

''(1) The term 'naval petroleum reserves' has the meaning given the term in section 7420(2) of title 10, United States Code.

''(2) The term 'Naval Petroleum Reserve Numbered 2' means the naval petroleum reserve, commonly referred to as the Buena Vista unit, that is located in Kern County, California, and was established by Executive order of the President, dated December 13, 1912.

''(3) The term 'Naval Petroleum Reserve Numbered 3' means the naval petroleum reserve, commonly referred to as the Teapot Dome unit, that is located in the State of Wyoming and was established by Executive order of the President, dated April 30, 1915.

''(4) The term 'Oil Shale Reserve Numbered 2' means the naval petroleum reserve that is located in

the State of Utah and was established by Executive order of the President, dated December 6, 1916.

''(5) The term 'antitrust laws' has the meaning given the term in section 1(a) of the Clayton Act (15 U.S.C. 12(a)), except that the term also includes—

''(A) the Act of June 19, 1936 (15 U.S.C. 13 et seq.; commonly known as the Robinson-Patman Act); and

''(B) section 5 of the Federal Trade Commission Act (15 U.S.C. 45), to the extent that such section applies to unfair methods of competition.

''(6) The term 'petroleum' has the meaning given the term in section 7420(3) of title 10, United States Code.

''SEC. 3402. AUTHORIZATION OF APPROPRIATIONS.

''(a) AMOUNT.—There are hereby authorized to be appropriated to the Secretary of Energy $22,500,000 for fiscal year 1999 for the purpose of carrying out—

''(1) activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves;

''(2) closeout activities at Naval Petroleum Reserve Numbered 1 upon the sale of that reserve under subtitle B of title XXXIV of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 7420 note); and

''(3) activities under this title relating to the disposition of Naval Petroleum Reserve Numbered 2, Naval Petroleum Reserve Numbered 3, and Oil Shale Reserve Numbered 2.

''(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

''SEC. 3403. DISPOSAL OF NAVAL PETROLEUM RESERVE NUMBERED 2.

''(a) DISPOSAL OF FORD CITY LOTS AUTHORIZED.—(1) Subject to section 3406, the Secretary of Energy may dispose of the portion of Naval Petroleum Reserve Numbered 2 that is located within the town lots in Ford City, California, which are identified as 'Drill Sites Numbered 3A, 4, 6, 9A, 20, 22, 24, and 26' and described in the document entitled 'Ford City Drill Site Locations—NPR–2,' and accompanying maps on file in the office of the Deputy Assistant Secretary for Naval Petroleum and Oil Shale Reserves of the Department of Energy.

''(2) The Secretary of Energy shall carry out the disposal authorized by paragraph (1) by competitive sale or lease consistent with commercial practices, by transfer to another Federal agency or a public or private entity, or by such other means as the Secretary considers appropriate. Any competitive sale or lease under this subsection shall provide for the disposal of all right, title, and interest of the United States in the property to be conveyed. The Secretary of Energy may use the authority provided by the Act of June 14, 1926 (43 U.S.C. 869 et seq.; commonly known as the Recreation and Public Purposes Act), in the same manner and to the same extent as the Secretary of the Interior, to dispose of the portion of Naval Petroleum Reserve Numbered 2 described in paragraph (1).

''(3) Section 2696(a) of title 10, United States Code, regarding the screening of real property for further Federal use before disposal, shall apply to the disposal authorized by paragraph (1).

''[(b) Repealed. Pub. L. 109–58, title III, § 331(d), Aug. 8, 2005, 119 Stat. 695.]

''(c) RELATIONSHIP TO ANTITRUST LAWS.—This section does not modify, impair, or supersede the operation of the antitrust laws.

''SEC. 3404. DISPOSAL OF NAVAL PETROLEUM RESERVE NUMBERED 3.

''(a) ADMINISTRATION PENDING TERMINATION OF OPERATIONS.—The Secretary of Energy shall continue to administer Naval Petroleum Reserve Numbered 3 in accordance with chapter 641 of title 10, United States Code, until such time as the Secretary makes a determination to abandon oil and gas operations in Naval Petroleum Reserve Numbered 3 in accordance with commercial operating practices.

''(b) DISPOSAL AUTHORIZED.—After oil and gas operations are abandoned in Naval Petroleum Reserve Numbered 3, the Secretary of Energy may dispose of the reserve as provided in this subsection. Subject to section 3406, the Secretary shall carry out any such disposal of the reserve by sale or lease or by transfer to another Federal agency. Any sale or lease shall provide for the disposal of all right, title, and interest of the United States in the property to be conveyed and shall be conducted in accordance with competitive procedures consistent with commercial practices, as established by the Secretary.

''(c) RELATIONSHIP TO ANTITRUST LAWS.—This section does not modify, impair, or supersede the operation of the antitrust laws.

''SEC. 3405. DISPOSAL OF OIL SHALE RESERVE NUMBERED 2.

''(a) DEFINITIONS.—In this section:

''(1) NOSR–2.—The term 'NOSR–2' means Oil Shale Reserve Numbered 2, as identified on a map on file in the Office of the Secretary of the Interior.

''(2) MOAB SITE.—The term 'Moab site' means the Moab uranium milling site located approximately three miles northwest of Moab, Utah, and identified in the Final Environmental Impact Statement issued by the Nuclear Regulatory Commission in March 1996 in conjunction with Source Materials License No. SUA–917.

''(3) MAP.—The term 'map' means the map depicting the boundaries of NOSR–2, to be kept on file and available for public inspection in the offices of the Department of the Interior.

''(4) TRIBE.—The term 'Tribe' means the Ute Indian Tribe of the Uintah and Ouray Indian Reservation.

''(5) TRUSTEE.—The term 'Trustee' means the Trustee of the Moab Mill Reclamation Trust.

''(b) CONVEYANCE.—(1) Except as provided in paragraph (2) and subsection (e), all right, title, and interest of the United States in and to all Federal lands within the exterior boundaries of NOSR–2 (including surface and mineral rights) are hereby conveyed to the Tribe in fee simple. The Secretary of Energy shall execute and file in the appropriate office a deed or other instrument effectuating the conveyance made by this section.

''(2) The conveyance under paragraph (1) does not include the following:

''(A) The portion of the bed of Green River contained entirely within NOSR–2, as depicted on the map.

''(B) The land (including surface and mineral rights) to the west of the Green River within NOSR–2, as depicted on the map.

''(C) A ¼ mile scenic easement on the east side of the Green River within NOSR–2.

''(c) CONDITIONS ON CONVEYANCE.—(1) The conveyance under subsection (b) is subject to valid existing rights in effect on the day before the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000].

''(2) On completion of the conveyance under subsection (b), the United States relinquishes all management authority over the conveyed land, including tribal activities conducted on the land.

''(3) With respect to the land conveyed to the Tribe under subsection (b)—

''(A) the land shall not be subject to any Federal restriction on alienation; and

''(B) notwithstanding any provision to the contrary in the constitution, bylaws, or charter of the Tribe, the Act of May 11, 1938 (commonly known as the 'Indian Mineral Leasing Act of 1938') (25 U.S.C. 396a et seq.), the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.), section 2103 of the Revised Statutes (25 U.S.C. 81), or section 2116 of the Revised Statutes (25 U.S.C. 177), or any other law, no purchase, grant, lease, or other conveyance of the land (or any

interest in the land), and no exploration, development, or other agreement relating to the land that is authorized by resolution by the governing body of the Tribe, shall require approval by the Secretary of the Interior or any other Federal official.

''(4) The reservation of the easement under subsection (b)(2)(C) shall not affect the right of the Tribe to use and maintain access to the Green River through the use of the road within the easement, as depicted on the map.

''(5) Each withdrawal that applies to NOSR–2 and that is in effect on the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000] is revoked to the extent that the withdrawal applies to NOSR–2.

''(6) Notwithstanding that the land conveyed to the Tribe under subsection (b) shall not be part of the reservation of the Tribe, such land shall be deemed to be part of the reservation of the Tribe for the purposes of criminal and civil jurisdiction.

''(d) ADMINISTRATION OF UNCONVEYED LAND AND INTERESTS IN LAND.—(1) The land and interests in land excluded by subparagraphs (A) and (B) of subsection (b)(2) from conveyance under subsection (b) shall be administered by the Secretary of the Interior in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

''(2) Not later than three years after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000], the Secretary of the Interior shall submit to Congress a land use plan for the management of the land and interests in land referred to in paragraph (1).

''(3) There are authorized to be appropriated to the Secretary of the Interior such sums as are necessary to carry out this subsection.

''(e) ROYALTY.—(1) Notwithstanding the conveyance under subsection (b), the United States retains a nine percent royalty interest in the value of any oil, gas, other hydrocarbons, and all other minerals that are produced, saved, and sold from the conveyed land during the period beginning on the date of the conveyance and ending on the date the Secretary of Energy releases the royalty interest under subsection (i).

''(2) The royalty payments shall be made by the Tribe or its designee to the Secretary of Energy during the period that the oil, gas, hydrocarbons, or minerals are being produced, saved, sold, or extracted. The Secretary of Energy shall retain and use the payments in the manner provided in subsection (i)(3).

''(3) The royalty interest retained by the United States under this subsection does not include any development, production, marketing, and operating expenses.

''(4) The Tribe shall submit to the Secretary of Energy and to Congress an annual report on resource development and other activities of the Tribe concerning the conveyance under subsection (b).

''(5) Not later than five years after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000], and every five years thereafter, the Tribe shall obtain an audit of all resource development activities of the Tribe concerning the conveyance under subsection (b), as provided under chapter 75 of title 31, United States Code. The results of each audit under this paragraph shall be included in the next annual report submitted under paragraph (4).

''(f) RIVER MANAGEMENT.—(1) The Tribe shall manage, under Tribal jurisdiction and in accordance with ordinances adopted by the Tribe, land of the Tribe that is adjacent to, and within ¼ mile of, the Green River in a manner that—

''(A) maintains the protected status of the land; and

''(B) is consistent with the government-to-government agreement and in the memorandum of understanding dated February 11, 2000, as agreed to by the Tribe and the Secretary of the Interior.

''(2) An ordinance referred to in paragraph (1) shall not impair, limit, or otherwise restrict the management and use of any land that is not owned, controlled, or subject to the jurisdiction of the Tribe.

''(3) An ordinance adopted by the Tribe and referenced in the government-to-government agreement may not be repealed or amended without the written approval of both the Tribe and the Secretary of the Interior.

''(g) PLANT SPECIES.—(1) In accordance with a government-to-government agreement between the Tribe and the Secretary of the Interior, in a manner consistent with levels of legal protection in effect on the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000], the Tribe shall protect, under ordinances adopted by the Tribe, any plant species that is—

''(A) listed as an endangered species or threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); and

''(B) located or found on the NOSR–2 land conveyed to the Tribe.

''(2) The protection described in paragraph (1) shall be performed solely under tribal jurisdiction.

''(h) HORSES.—(1) The Tribe shall manage, protect, and assert control over any horse not owned by the Tribe or tribal members that is located or found on the NOSR–2 land conveyed to the Tribe in a manner that is consistent with Federal law governing the management, protection, and control of horses in effect on the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000].

''(2) The management, control, and protection of horses described in paragraph (1) shall be performed solely—

''(A) under tribal jurisdiction; and

''(B) in accordance with a government-to-government agreement between the Tribe and the Secretary of the Interior.

''(i) REMEDIAL ACTION AT MOAB SITE.—(1)(A) The Secretary of Energy shall prepare a plan for remediation, including ground water restoration, of the Moab site in accordance with title I of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7911 et seq.). The Secretary of Energy shall enter into arrangements with the National Academy of Sciences to obtain the technical advice, assistance, and recommendations of the National Academy of Sciences in objectively evaluating the costs, benefits, and risks associated with various remediation alternatives, including removal or treatment of radioactive or other hazardous materials at the site, ground water restoration, and long-term management of residual contaminants. If the Secretary prepares a remediation plan that is not consistent with the recommendations of the National Academy of Sciences, the Secretary shall submit to Congress a report explaining the reasons for deviation from the National Academy of Sciences' recommendations.

''(B) The remediation plan required by subparagraph (A) shall be completed not later than one year after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000], and the Secretary of Energy shall commence remedial action at the Moab site as soon as practicable after the completion of the plan.

''(C) The license for the materials at the Moab site issued by the Nuclear Regulatory Commission shall terminate one year after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, unless the Secretary of Energy determines that the license may be terminated earlier. Until the license is terminated, the Trustee, subject to the availability of funds appropriated specifically for a purpose described in clauses (i) through (iii) or made available by the Trustee from the Moab Mill Reclamation Trust, may carry out—

''(i) interim measures to reduce or eliminate localized high ammonia concentrations in the Colorado River, identified by the United States Geological Survey in a report dated March 27, 2000;

''(ii) activities to dewater the mill tailings at the Moab site; and

''(iii) other activities related to the Moab site, subject to the authority of the Nuclear Regulatory Commission and in consultation with the Secretary of Energy.

''(D) As part of the remediation plan for the Moab site required by subparagraph (A), the Secretary of Energy shall develop, in consultation with the Trustee, the Nuclear Regulatory Commission, and the State of Utah, an efficient and legal means for transferring all responsibilities and title to the Moab site and all the materials therein from the Trustee to the Department of Energy.

''(2) The Secretary of Energy shall limit the amounts expended in carrying out the remedial action under paragraph (1) to—

''(A) amounts specifically appropriated for the remedial action in an appropriation Act; and

''(B) other amounts made available for the remedial action under this subsection.

''(3)(A) The royalty payments received by the Secretary of Energy under subsection (e) shall be available to the Secretary, without further appropriation, to carry out the remedial action under paragraph (1) until such time as the Secretary determines that all costs incurred by the United States to carry out the remedial action (other than costs associated with long-term monitoring) have been paid.

''(B) Upon making the determination referred to in subparagraph (A), the Secretary of Energy shall transfer all remaining royalty amounts to the general fund of the Treasury and release to the Tribe the royalty interest retained by the United States under subsection (e).

''(4)(A) Funds made available to the Department of Energy for national security activities shall not be used to carry out the remedial action under paragraph (1), except that the Secretary of Energy may use such funds for program direction directly related to the remedial action.

''(B) There are authorized to be appropriated to the Secretary of Energy to carry out the remedial action under paragraph (1) such sums as are necessary.

''(5) If the Moab site is sold after the date on which the Secretary of Energy completes the remedial action under paragraph (1), the seller shall pay to the Secretary of Energy, for deposit in the general fund of the Treasury, the portion of the sale price that the Secretary determines resulted from the enhancement of the value of the Moab site as a result of the remedial action. The enhanced value of the Moab site shall be equal to the difference between—

''(A) the fair market value of the Moab site on the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Oct. 30, 2000], based on information available on that date; and

''(B) the fair market value of the Moab site, as appraised on completion of the remedial action.

''SEC. 3406. ADMINISTRATION.

''(a) PROTECTION OF EXISTING RIGHTS.—At the discretion of the Secretary of Energy, the disposal of property under this title shall be subject to any contract related to the United States ownership interest in the property in effect at the time of disposal, including any lease agreement pertaining to the United States interest in Naval Petroleum Reserve Numbered 2.

''(b) DEPOSIT OF RECEIPTS.—Notwithstanding any other law, all monies received by the United States from the disposal of property under this title, including any monies received from a lease entered into under this title, shall be deposited in the general fund of the Treasury.

''(c) TREATMENT OF ROYALTIES.—Any petroleum accruing to the United States as royalty from any lease of lands transferred under this title shall be delivered to the United States, or shall be paid for in money, as the Secretary of the Interior may elect.

''(d) ELEMENTS OF LEASE.—A lease under this title may provide for the exploration for, and development and production of, petroleum, other than petroleum in the form of oil shale.

''(e) WAIVER OF REQUIREMENTS REGARDING CONSULTATION AND APPROVAL.—Section 7431 of title 10, United States Code, shall not apply to the disposal of property under this title.

''(f) OIL SHALE RESERVE NUMBERED 2.—This section does not apply to the transfer of Oil Shale Reserve Numbered 2 under section 3405.''

Pub. L. 104–106, div. C, title XXXIV, subtitle B, Feb. 10, 1996, 110 Stat. 631, as amended by Pub. L. 106–65, div. A, title X, § 1067(6), Oct. 5, 1999, 113 Stat. 774, provided that:

''SEC. 3411. DEFINITIONS.

''For purposes of this subtitle:

''(1) The terms 'Naval Petroleum Reserve Numbered 1' and 'reserve' mean Naval Petroleum Reserve Numbered 1, commonly referred to as the Elk Hills Unit, located in Kern County, California, and established by Executive order of the President, dated September 2, 1912.

''(2) The term 'naval petroleum reserves' has the meaning given that term in section 7420(2) of title 10, United States Code, except that the term does not include Naval Petroleum Reserve Numbered 1.

''(3) The term 'unit plan contract' means the unit plan contract between equity owners of the lands within the boundaries of Naval Petroleum Reserve Numbered 1 entered into on June 19, 1944.

''(4) The term 'effective date' means the date of the enactment of this Act [Feb. 10, 1996].

''(5) The term 'Secretary' means the Secretary of Energy.

''(6) The term 'appropriate congressional committees' means the Committee on Armed Services of the Senate and the Committee on Armed Services and the Committee on Commerce [now Committee on Energy and Commerce] of the House of Representatives.

''SEC. 3412. SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.

''(a) SALE OF RESERVE REQUIRED.—Subject to section 3414, not later than two years after the effective date, the Secretary of Energy shall enter into one or more contracts for the sale of all right, title, and interest of the United States in and to all lands owned or controlled by the United States inside Naval Petroleum Reserve Numbered 1. Chapter 641 of title 10, United States Code, shall not apply to the sale of the reserve.

''(b) EQUITY FINALIZATION.—(1) Not later than eight months after the effective date, the Secretary shall finalize equity interests of the known oil and gas zones in Naval Petroleum Reserve Numbered 1 in the manner provided by this subsection.

''(2) The Secretary shall retain the services of an independent petroleum engineer, mutually acceptable to the equity owners, who shall prepare a recommendation on final equity figures. The Secretary may accept the recommendation of the independent petroleum engineer for final equity in each known oil and gas zone and establish final equity interest in Naval Petroleum Reserve Numbered 1 in accordance with the recommendation, or the Secretary may use such other method to establish final equity interest in the reserve as the Secretary considers appropriate.

''(3) If, on the effective date, there is an ongoing equity redetermination dispute between the equity owners under section 9(b) of the unit plan contract, the dispute shall be resolved in the manner provided in the unit plan contract within eight months after the effective date. The resolution shall be considered final for all purposes under this section.

''(c) NOTICE OF SALE.—Not later than two months after the effective date, the Secretary shall publish a notice of intent to sell Naval Petroleum Reserve Numbered 1. The Secretary shall make all technical, geological, and financial information relevant to the sale of the reserve available to all interested and qualified buyers upon request. The Secretary, in consultation with the Administrator of General Services, shall en-

sure that the sale process is fair and open to all interested and qualified parties.

''(d) ESTABLISHMENT OF MINIMUM SALE PRICE.—(1) Not later than seven months after the effective date, the Secretary shall retain the services of five independent experts in the valuation of oil and gas fields to conduct separate assessments, in a manner consistent with commercial practices, of the value of the interest of the United States in Naval Petroleum Reserve Numbered 1. The independent experts shall complete their assessments within 11 months after the effective date. In making their assessments, the independent experts shall consider (among other factors)—

''(A) all equipment and facilities to be included in the sale;

''(B) the estimated quantity of petroleum and natural gas in the reserve; and

''(C) the net present value of the anticipated revenue stream that the Secretary and the Director of the Office of Management and Budget jointly determine the Treasury would receive from the reserve if the reserve were not sold, adjusted for any anticipated increases in tax revenues that would result if the reserve were sold.

''(2) The independent experts retained under paragraph (1) shall also determine and submit to the Secretary the estimated total amount of the cost of any environmental restoration and remediation necessary at the reserve. The Secretary shall report the estimate to the Director of the Office of Management and Budget, the Secretary of the Treasury, and Congress.

''(3) The Secretary, in consultation with the Director of the Office of Management and Budget, shall set the minimum acceptable price for the reserve. The Secretary may not set the minimum acceptable price below the higher of—

''(A) the average of the five assessments prepared under paragraph (1); and

''(B) the average of three assessments after excluding the high and low assessments.

''(e) ADMINISTRATION OF SALE; DRAFT CONTRACT.—(1) Not later than two months after the effective date, the Secretary shall retain the services of an investment banker or an appropriate equivalent financial adviser to independently administer, in a manner consistent with commercial practices and in a manner that maximizes sale proceeds to the Government, the sale of Naval Petroleum Reserve Numbered 1 under this section. Costs and fees of retaining the investment banker or financial adviser may be paid out of the proceeds of the sale of the reserve.

''(2) Not later than 11 months after the effective date, the investment banker or financial adviser retained under paragraph (1) shall complete a draft contract or contracts for the sale of Naval Petroleum Reserve Numbered 1, which shall accompany the solicitation of offers and describe the terms and provisions of the sale of the interest of the United States in the reserve.

''(3) The draft contract or contracts shall identify—

''(A) all equipment and facilities to be included in the sale; and

''(B) any potential claim or liability (including liability for environmental restoration and remediation), and the extent of any such claim or liability, for which the United States is responsible under subsection (g).

''(4) The draft contract or contracts, including the terms and provisions of the sale of the interest of the United States in the reserve, shall be subject to review and approval by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget. Each of those officials shall complete the review of, and approve or disapprove, the draft contract or contracts not later than 12 months after the effective date.

''(f) SOLICITATION OF OFFERS.—(1) Not later than 13 months after the effective date, the Secretary shall publish the solicitation of offers for Naval Petroleum Reserve Numbered 1.

''(2) Not later than 18 months after the effective date, the Secretary shall identify the highest responsible offer or offers for purchase of the interest of the United States in Naval Petroleum Reserve Numbered 1 that, in total, meet or exceed the minimum acceptable price determined under subsection (d)(3).

''(3) The Secretary shall take such action immediately after the effective date as is necessary to obtain from an independent petroleum engineer within 10 months after that date a reserve report prepared in a manner consistent with commercial practices. The Secretary shall use the reserve report in support of the preparation of the solicitation of offers for the reserve.

''(g) FUTURE LIABILITIES.—To effectuate the sale of the interest of the United States in Naval Petroleum Reserve Numbered 1, the Secretary may extend such indemnities and warranties as the Secretary considers reasonable and necessary to protect the purchaser from claims arising from the ownership in the reserve by the United States.

''(h) MAINTAINING PRODUCTION.—Until the sale of Naval Petroleum Reserve Numbered 1 is completed under this section, the Secretary shall continue to produce the reserve at the maximum daily oil or gas rate from a reservoir, which will permit maximum economic development of the reservoir consistent with sound oil field engineering practices in accordance with section 3 of the unit plan contract.

''(i) NONCOMPLIANCE WITH DEADLINES.—At any time during the two-year period beginning on the effective date, if the Secretary determines that the actions necessary to complete the sale of the reserve within that period are not being taken or timely completed, the Secretary shall transmit to the appropriate congressional committees a written notification of that determination together with a plan setting forth the actions that will be taken to ensure that the sale of the reserve will be completed within that period. The Secretary shall consult with the Director of the Office of Management and Budget in preparing the plan for submission to the committees.

''(j) OVERSIGHT.—The Comptroller General shall monitor the actions of the Secretary relating to the sale of the reserve and report to the appropriate congressional committees any findings on such actions that the Comptroller General considers appropriate to report to the committees.

''(k) ACQUISITION OF SERVICES.—The Secretary may enter into contracts for the acquisition of services required under this section under the authority of paragraph (7) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)), except that the notification required under subparagraph (B) of such paragraph for each contract shall be submitted to Congress not less than 7 days before the award of the contract.

''SEC. 3413. EFFECT OF SALE OF RESERVE.

''(a) EFFECT ON EXISTING CONTRACTS.—(1) In the case of any contract, in effect on the effective date, for the purchase of production from any part of the United States' share of Naval Petroleum Reserve Numbered 1, the sale of the interest of the United States in the reserve shall be subject to the contract for a period of three months after the closing date of the sale or until termination of the contract, whichever occurs first. The term of any contract entered into after the effective date for the purchase of the production shall not exceed the anticipated closing date for the sale of the reserve.

''(2) The Secretary shall exercise the termination procedures provided in the contract between the United States and Bechtel Petroleum Operation, Inc., Contract Number DE–ACO1–85FE60520 so that the contract terminates not later than the date of closing of the sale of Naval Petroleum Reserve Numbered 1 under section 3412.

''(3) The Secretary shall exercise the termination procedures provided in the unit plan contract so that the unit plan contract terminates not later than the date of closing of the sale of reserve.

''(b) EFFECT ON ANTITRUST LAWS.—Nothing in this subtitle shall be construed to alter the application of

the antitrust laws of the United States to the purchaser or purchasers (as the case may be) of Naval Petroleum Reserve Numbered 1 or to the lands in the reserve subject to sale under section 3412 upon the completion of the sale.

''(c) PRESERVATION OF PRIVATE RIGHT, TITLE, AND INTEREST.—Nothing in this subtitle shall be construed to adversely affect the ownership interest of any other entity having any right, title, and interest in and to lands within the boundaries of Naval Petroleum Reserve Numbered 1 and which are subject to the unit plan contract.

''(d) TRANSFER OF OTHERWISE NONTRANSFERABLE PERMIT.—The Secretary may transfer to the purchaser or purchasers (as the case may be) of Naval Petroleum Reserve Numbered 1 the incidental take permit regarding the reserve issued to the Secretary by the United States Fish and Wildlife Service and in effect on the effective date if the Secretary determines that transfer of the permit is necessary to expedite the sale of the reserve in a manner that maximizes the value of the sale to the United States. The transferred permit shall cover the identical activities, and shall be subject to the same terms and conditions, as apply to the permit at the time of the transfer.

''SEC. 3414. CONDITIONS ON SALE PROCESS.

''(a) NOTICE REGARDING SALE CONDITIONS.—The Secretary may not enter into any contract for the sale of Naval Petroleum Reserve Numbered 1 under section 3412 until the end of the 31-day period beginning on the date on which the Secretary submits to the appropriate congressional committees a written notification—

''(1) describing the conditions of the proposed sale; and

''(2) containing an assessment by the Secretary of whether it is in the best interests of the United States to sell the reserve under such conditions.

''(b) AUTHORITY TO SUSPEND SALE.—(1) The Secretary may suspend the sale of Naval Petroleum Reserve Numbered 1 under section 3412 if the Secretary and the Director of the Office of Management and Budget jointly determine that—

''(A) the sale is proceeding in a manner inconsistent with achievement of a sale price that reflects the full value of the reserve; or

''(B) a course of action other than the immediate sale of the reserve is in the best interests of the United States.

''(2) Immediately after making a determination under paragraph (1) to suspend the sale of Naval Petroleum Reserve Numbered 1, the Secretary shall submit to the appropriate congressional committees a written notification describing the basis for the determination and requesting a reconsideration of the merits of the sale of the reserve.

''(c) EFFECT OF RECONSIDERATION NOTICE.—After the Secretary submits a notification under subsection (b), the Secretary may not complete the sale of Naval Petroleum Reserve Numbered 1 under section 3412 or any other provision of law unless the sale of the reserve is authorized in an Act of Congress enacted after the date of the submission of the notification.

''SEC. 3415. TREATMENT OF STATE OF CALIFORNIA CLAIM REGARDING RESERVE.

''(a) RESERVATION OF FUNDS.—After the costs incurred in the conduct of the sale of Naval Petroleum Reserve Numbered 1 under section 3412 are deducted, nine percent of the remaining proceeds from the sale of the reserve shall be reserved in a contingent fund in the Treasury for payment to the State of California for the Teachers' Retirement Fund of the State in the event that, and to the extent that, the claims of the State against the United States regarding production and proceeds of sale from Naval Petroleum Reserve Numbered 1 are—

''(1) settled by agreement with the United States under subsection (c); or

''(2) finally resolved in favor of the State by a court of competent jurisdiction, if a settlement agreement is not reached.

''(b) DISPOSITION OF FUNDS.—In such amounts as may be provided in appropriation Acts, amounts in the contingent fund shall be available for paying a claim described in subsection (a). After final disposition of the claims, any unobligated balance in the contingent fund shall be credited to the general fund of the Treasury. If no payment is made from the contingent fund within 10 years after the effective date, amounts in the contingent fund shall be credited to the general fund of the Treasury.

''(c) SETTLEMENT OFFER.—Not later than 30 days after the date of the sale of Naval Petroleum Reserve Numbered 1 under section 3412, the Secretary shall offer to settle all claims of the State of California against the United States with respect to lands in the reserve located in sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, and production or proceeds of sale from the reserve, in order to provide proper compensation for the State's claims. The Secretary shall base the amount of the offered settlement payment from the contingent fund on the fair value for the State's claims, including the mineral estate, not to exceed the amount reserved in the contingent fund.

''(d) RELEASE OF CLAIMS.—Acceptance of the settlement offer made under subsection (c) shall be subject to the condition that all claims against the United States by the State of California for the Teachers' Retirement Fund of the State be released with respect to lands in Naval Petroleum Reserve Numbered 1, including sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, or production or proceeds of sale from the reserve.

''SEC. 3416. STUDY OF FUTURE OF OTHER NAVAL PETROLEUM RESERVES.

''(a) STUDY REQUIRED.—The Secretary of Energy shall conduct a study to determine which of the following options, or combinations of options, regarding the naval petroleum reserves (other than Naval Petroleum Reserve Numbered 1) would maximize the value of the reserves to the United States:

''(1) Retention and operation of the naval petroleum reserves by the Secretary under chapter 641 of title 10, United States Code.

''(2) Transfer of all or a part of the naval petroleum reserves to the jurisdiction of another Federal agency for administration under chapter 641 of title 10, United States Code.

''(3) Transfer of all or a part of the naval petroleum reserves to the Department of the Interior for leasing in accordance with the Mineral Leasing Act (30 U.S.C. 181 et seq.) and surface management in accordance with the Federal Land Policy and Management Act [of 1976] (43 U.S.C. 1701 et seq.).

''(4) Sale of the interest of the United States in the naval petroleum reserves.

''(b) CONDUCT OF STUDY.—The Secretary shall retain an independent petroleum consultant to conduct the study.

''(c) CONSIDERATIONS UNDER STUDY.—An examination of the value to be derived by the United States from the transfer or sale of the naval petroleum reserves shall include an assessment and estimate of the fair market value of the interest of the United States in the naval petroleum reserves. The assessment and estimate shall be made in a manner consistent with customary property valuation practices in the oil and gas industry.

''(d) REPORT AND RECOMMENDATIONS REGARDING STUDY.—Not later than June 1, 1996, the Secretary shall submit to Congress a report describing the results of the study and containing such recommendations (including proposed legislation) as the Secretary considers necessary to implement the option, or combination of options, identified in the study that would maximize the value of the naval petroleum reserves to the United States.''

## § 7421. Jurisdiction and control

(a) The Secretary shall take possession of all properties inside the naval petroleum reserves

that are or may become subject to the control of and use by the United States for national defense purposes, except as otherwise provided in this chapter.

(b) The Secretary has exclusive jurisdiction and control over those lands inside Naval Petroleum Reserves Numbered 1 and 2 that are covered by leases granted under sections 181–184, 185–188, 189–194, 201, 202–209, 211–214, 223, 224–226, 226d, 226e, 227–229a, 241, 251, and 261–263 of title 30, and shall administer those leases.

(Aug. 10, 1956, ch. 1041, 70A Stat. 457; Pub. L. 87–796, §1(1), Oct. 11, 1962, 76 Stat. 904; Pub. L. 94–258, title II, §201(2), Apr. 5, 1976, 90 Stat. 307; Pub. L. 98–525, title XIV, §1405(50), Oct. 19, 1984, 98 Stat. 2625.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7421(a) ..... | 34 U.S.C. 524 (1st 36 words of 1st par.). | June 4, 1920, ch. 228 (1st par., 1st 36 words, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1253; June 17, 1944, ch. 262, 58 Stat. 280. |
| 7421(b) ..... | 34 U.S.C. 524 (293d word to end of 1st par.). | June 4, 1920, ch. 228 (1st par., 294th word to end, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 280. |
| | 34 U.S.C. 524a. | Feb. 25, 1928, ch. 104, 45 Stat. 148. |

In subsection (b) the reference to the transfer of jurisdiction and administration is omitted as executed.

REFERENCES IN TEXT

Section 194 of title 30, referred to in subsec. (b), was repealed by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 644.

Section 204 of title 30, included within the reference to sections 202–209 in subsec. (b), was repealed by Pub. L. 94–377, §13(a), Aug. 4, 1976, 90 Stat. 1090, subject to valid existing rights.

Sections 226d and 226e of title 30, referred to in subsec. (b), were omitted from the Code. See section 226 of Title 30, Mineral Lands and Mining.

Section 227 of title 30, referred to in subsec. (b), was omitted from the Code.

AMENDMENTS

1984—Subsec. (b). Pub. L. 98–525 substituted ''Naval Petroleum Reserves Numbered'' for ''naval petroleum reserves numbered''.

1976—Subsec. (a). Pub. L. 94–258 struck out ''of the Navy'' after ''Secretary'', ''and oil shale'' after ''naval petroleum'', and substituted ''for national defense purposes'' for ''for naval purposes'', and ''this chapter'' for ''section 7438 hereof''.

1962—Subsec. (a). Pub. L. 87–796 empowered the Secretary to take possession of all properties inside the oil shale reserves, and inserted the exception clause.

## § 7422. Administration

(a) The Secretary, directly or by contract, lease, or otherwise, shall explore, prospect, conserve, develop, use, and operate the naval petroleum reserves in his discretion, subject to the provisions of subsection (c) and the other provisions of this chapter; except that no petroleum leases shall be granted at Naval Petroleum Reserves Numbered 1 and 3.

(b) Except as otherwise provided in this chapter, particularly subsection (c), the naval petroleum reserves shall be used and operated for—

(1) the protection, conservation, maintenance, and testing of those reserves; or

(2) the production of petroleum whenever and to the extent that the Secretary, with the approval of the President, finds that such production is needed for national defense purposes and the production is authorized by a joint resolution of Congress.

(c)(1) In administering Naval Petroleum Reserves Numbered 1, 2, and 3, the Secretary is authorized and directed—

(A) to further explore, develop, and operate such reserves;

(B) to produce, during any extension of a period under paragraph (2), such reserves—

(i) at the maximum efficient rate consistent with sound engineering practices; or

(ii) at a lesser rate consistent with sound engineering practices and the protection, conservation, maintenance, and testing of such reserves if the Secretary determines that the minimum price described in section 7430(b)(2) of this title cannot be attained for the United States share of petroleum (other than natural gas liquids) produced from such Reserves;

(C) during such production period or any extension thereof to sell or otherwise dispose of the United States share of such petroleum produced from such reserves as provided in section 7430 of this title; and

(D) to construct, acquire, or contract for the use of storage and shipping facilities on and off the reserves and pipelines and associated facilities on and off the reserves for transporting petroleum from such reserves to the points where the production from such reserves will be refined or shipped.

Any pipeline in the vicinity of a naval petroleum reserve not otherwise operated as a common carrier may be acquired by the Secretary by condemnation, if necessary, if the owner thereof refuses to accept, convey, and transport without discrimination and at reasonable rates any petroleum produced at such reserve. With the approval of the Secretary, rights-of-way for new pipelines and associated facilities may be acquired by the exercise of the right of eminent domain in the appropriate United States district court. Such rights-of-way may be acquired in the manner set forth in sections 3114–3116 and 3118 of title 40, and the prospective holder of the right-of-way is ''the authority empowered by law to acquire the land'' within the meaning of those sections. Such new pipelines shall accept, convey, and transport without discrimination and at reasonable rates any petroleum produced at such reserves as a common carrier.

(2) After April 5, 1982, the President may extend the period of production in the case of any naval petroleum reserve for additional periods of not to exceed three years each—

(A) after the President requires an investigation to be made, in the case of each extension, to determine the necessity for continued production from such naval petroleum reserve;

(B) after the President submits to the Congress, at least 180 days before the expiration of

the current production period prescribed by this section, or any extension thereof, a copy of the report made to him on such investigation together with a certification by him that continued production from such naval petroleum reserve is in the national interest; and

(C) if neither House of Congress within ninety days after receipt of such report and certification adopts a resolution disapproving further production from such naval petroleum reserve.

(Aug. 10, 1956, ch. 1041, 70A Stat. 458; Pub. L. 87–599, § 1, Aug. 24, 1962, 76 Stat. 401; Pub. L. 87–796, § 1(2), Oct. 11, 1962, 76 Stat. 904; Pub. L. 94–258, title II, § 201(3), Apr. 5, 1976, 90 Stat. 307; Pub. L. 96–137, § 3(a), Dec. 12, 1979, 93 Stat. 1061; Pub. L. 96–513, title V, § 513(31), Dec. 12, 1980, 94 Stat. 2933; Pub. L. 98–525, title XIV, § 1405(51), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 99–413, § 1(a), Aug. 29, 1986, 100 Stat. 944; Pub. L. 100–202, § 101(g) [title II, § 201], Dec. 22, 1987, 101 Stat. 1329–213, 1329–242; Pub. L. 101–189, div. A, title XVI, § 1622(f)(2), Nov. 29, 1989, 103 Stat. 1605; Pub. L. 107–217, § 3(b)(30), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 108–178, § 4(b)(6), Dec. 15, 2003, 117 Stat. 2641.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7422 ..... | 34 U.S.C. 524 (1st par., 37th through 62d words, and 123d through 185th words). | June 4, 1920, ch. 228 (1st par., 37th through 62d words, and 123d through 185th words, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, § 1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 280. |

AMENDMENTS

2003—Subsec. (c)(1). Pub. L. 108–178 substituted ''land' within the meaning of those sections'' for ''lands' within the meaning of that Act'' in concluding provisions.

2002—Subsec. (c)(1). Pub. L. 107–217 substituted ''sections 3114–3116 and 3118 of title 40'' for ''the Act of February 26, 1931 (40 U.S.C. 258a–258e)'' in concluding provisions.

1989—Subsec. (c)(2)(B). Pub. L. 101–189 substituted ''180 days before'' for ''one hundred eighty days prior to''.

1987—Subsec. (c)(1)(B)(ii). Pub. L. 100–202 inserted ''(other than natural gas liquids)'' after ''petroleum''.

1986—Subsec. (c)(1)(B). Pub. L. 99–413, § 1(a)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: ''to produce such reserves at the maximum efficient rate consistent with sound engineering practices for a period ending not later than April 5, 1982;''.

Subsec. (c)(3). Pub. L. 99–413, § 1(a)(2), struck out par. (3) which conditioned the production authorization for Naval Petroleum Reserve Numbered 1 upon private owners' agreements with the Secretary to continue operations of such reserve under a unitized plan contract that protected the public interest.

1984—Subsec. (b). Pub. L. 98–525 struck out ''of this section'' after ''subsection (c)'' in provisions preceding par. (1).

1980—Subsec. (c)(1). Pub. L. 96–513, § 513(31)(A)–(D), in cl. (B) substituted provisions respecting termination on April 5, 1982, for provisions respecting commencement and termination, respectively, ninety days after date of enactment of the Naval Petroleum Reserves Production Act of 1976, and not to exceed six years after such date, in cl. (C) substituted ''provided in section 7430 of this title'' for ''hereinafter provided'', and in text following cl. (D) substituted ''discrimination'' for ''discrimiation'', and ''(40 U.S.C. 258a–258e)'' for '', chapter 307 (46 Stat. 1421; 40 U.S.C. 258(a))''.

Subsec. (c)(2). Pub. L. 96–513, § 513(31)(E), substituted ''After April 5, 1982,'' for ''At the conclusion of the six-year production period authorized by paragraph (1)(B) of this subsection''.

Subsec. (c)(3). Pub. L. 96–513, § 513(31)(F), substituted ''by July 4, 1976'' for ''within ninety days after the date of enactment of the Naval Petroleum Reserves Production Act of 1976''.

1979—Subsec. (c)(1). Pub. L. 96–137 struck out in text following subpar. (D), provision requiring that pipelines and associated facilities constructed at or procured for Naval Petroleum Reserve Numbered 1 pursuant to this subsection have adequate capacity to accommodate not less than three hundred fifty thousand barrels of oil per day and be fully operable as soon as possible, but not later than three years after the date of enactment of the Naval Petroleum Reserves Production Act of 1976.

1976—Subsec. (a). Pub. L. 94–258 substituted provisions authorizing the Secretary to explore, etc., the naval petroleum reserves in his discretion, subject to subsec. (c) of this section and this chapter and excepting specified Reserves from leasing arrangements, for provisions authorizing the Secretary of the Navy, except as provided in section 7438 hereof, to explore, etc., the naval petroleum preserves and oil shale reserves in his discretion, subject to Presidential approval.

Subsec. (b). Pub. L. 94–258 in introductory cl. substituted provisions authorizing use and operation of naval petroleum reserves except as otherwise provided in this chapter and in particular subsec. (c) of this section, for provisions authorizing use and operation of naval petroleum and oil shale reserves and lands outside naval petroleum reserve numbered 1 covered by contracts under section 7426 of this title and in cl. (2) struck out reference to gas, oil shale and products thereof.

Subsec. (c). Pub. L. 94–258 substituted provisions setting forth manner of administration by Secretary of Naval Petroleum Reserves Numbered 1, 2, and 3, authorizing President to extend period of production of any naval petroleum reserve, and conditioning production authorization for Reserve Numbered 1, for provisions authorizing the Secretary to develop naval petroleum reserve numbered 4, South Barrow gas field, and to supply gas to government installations at or near Point Barrow and to the native village of Barrow.

1962—Subsec. (a). Pub. L. 87–796 substituted ''Except as otherwise provided in section 7438 hereof, the Secretary'' for ''The Secretary'', and included oil shale reserves.

Subsec. (b). Pub. L. 87–796 included oil shale reserves in the opening provisions, and substituted ''petroleum, gas, oil shale and products thereof whenever'' for ''petroleum whenever'' in cl. (2).

Subsec. (c). Pub. L. 87–599 added subsec. (c).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

AVAILABILITY OF REVENUES FROM SALE OF NATURAL GAS FOR USE IN GAS PROTECTION ACTIVITY

Pub. L. 101–512, title II, Nov. 5, 1990, 104 Stat. 1947, provided in part: ''That, notwithstanding any other provision of law, revenues received from the sale of natural gas after the date of enactment of this Act [Nov. 5, 1990] from wells drilled or communitized in fiscal year 1990 and thereafter as part of gas protection activity at the Naval Oil Shale Reserves shall be depos-

ited in this account, to remain available until expended, for use in further gas protection activity''.

CONNECTIONS TO PIPELINE IN SOUTH BARROW GAS FIELD

Section 3 of Pub. L. 87–599 provided that: ''The Federal agency or agencies in control of any pipeline between gas wells in the South Barrow gas field and the town of Barrow may authorize purchasers of the gas or carriers of the gas to install connections to such pipeline.''

## § 7423. Periodic re-examination of production requirements

The Secretary shall from time to time reexamine the need for the production of petroleum from oil shale for national defense when that production is authorized under section 7422 of this title. If he finds that the authorized quantity is no longer needed, he shall reduce production to the amount currently needed for national defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 458; Pub. L. 87–796, § 1(3), Oct. 11, 1962, 76 Stat. 904; Pub. L. 94–258, title II, § 201(4), Apr. 5, 1976, 90 Stat. 309.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7423 ..... | 34 U.S.C. 524 (186th through 243d words of 1st par.). | June 4, 1920, ch. 228 (1st par., 186th through 243d words, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, § 1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 280. |

AMENDMENTS

1976—Pub. L. 94–258 struck out ''of the Navy'' after ''Secretary'' and ''or products'' after ''petroleum''.

1962—Pub. L. 87–796 directed the Secretary to reexamine, from time to time, the need for production of products from oil shale.

## § 7424. Protection of oil reserves; contracts for conservation

(a) To consolidate and protect the oil lands owned by the United States, the Secretary may—

(1) contract with owners and lessees of land inside or adjoining naval petroleum reserves for—

(A) conservation of oil and gas; and

(B) compensation for estimated drainage in lieu of drilling or operating offset wells; and

(2) acquire privately owned lands or leases inside Naval Petroleum Reserve Numbered 1 by exchange of—

(A) lands of the United States inside Naval Petroleum Reserve Numbered 1;

(B) the right to royalty production from any of the naval petroleum reserves; and

(C) the right to any money due the United States as a result of the wrongful extraction of petroleum products from lands inside Naval Petroleum Reserve Numbered 1.

(b) The Secretary shall report annually to Congress all agreements under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 458; Pub. L. 87–796, § 1(4), Oct. 11, 1962, 76 Stat. 904; Pub. L. 94–258, title II, § 201(5), Apr. 5, 1976, 90 Stat. 309; Pub. L. 96–513, title V, § 513(32)(A), Dec. 12, 1980, 94 Stat. 2933.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7424 ..... | 34 U.S.C. 524 (4th par., less 1st proviso). | June 4, 1920, ch. 228 (4th par., less 1st proviso, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, § 1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 282. |

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–513 substituted ''Naval Petroleum Reserve Numbered 1'' for ''naval petroleum reserve numbered 1'' wherever appearing.

1976—Subsec. (a). Pub. L. 94–258 struck out ''of the Navy'' after ''Secretary'', ''and oil shale'' after ''petroleum'' in par. (1), and ''in the ground'' after ''conservation'' in subpar. (A) of par. (1).

1962—Subsec. (a). Pub. L. 87–796 inserted provisions in cl. (1) empowering the Secretary to contract with owners and lessees of land inside or adjoining oil shale reserves.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

## § 7425. Acquisition by condemnation and purchase

(a) Whenever the Secretary is unable to make arrangements he considers satisfactory for exchanges of land or agreements for conservation authorized by section 7424 of this title, the Secretary may acquire, with the approval of the President, such privately owned lands and leases—

(1) by purchase, inside the naval petroleum reserves, or outside those reserves on the same geologic structure; and

(2) by condemnation, inside Naval Petroleum Reserve Numbered 1, or, if there is substantial drainage, outside that reserve on the same geologic structure.

(b) The Secretary shall report annually to Congress all proceedings for purchase and condemnation under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 458; Pub. L. 94–258, title II, § 201(6), Apr. 5, 1976, 90 Stat. 309; Pub. L. 96–513, title V, § 513(32)(A), Dec. 12, 1980, 94 Stat. 2933; Pub. L. 106–398, § 1 [div. C, title XXXIV, § 3402(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–484.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7425 ..... | 34 U.S.C. 524 (5th par., 1st 123 words, and 169th through 193d words). | June 4, 1920, ch. 228 (5th par., 1st 123 words, and 169th through 193d words, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, § 1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 282. |

The words ''Whenever the Secretary of the Navy is unable'' are substituted for the words ''In the event of the inability of the Secretary of the Navy'' for brevity.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–398 substituted ''for exchanges of land or agreements for conservation authorized by section 7424 of this title, the Secretary may acquire'' for ''for—

''(1) exchanges of land or agreements for conservation authorized by section 7424 of this title; or

''(2) contracts for joint, unit, or other cooperative plans with respect to lands or leases authorized by section 7426 of this title;

he may acquire''.

1980—Subsec. (a). Pub. L. 96–513 substituted ''Naval Petroleum Reserve Numbered 1'' for ''naval petroleum reserve numbered 1''.

1976—Subsec. (a). Pub. L. 94–258 struck out ''of the Navy'' after ''Secretary''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

## [§ 7426. Repealed. Pub. L. 106–398, § 1 [div. C, title XXXIV, § 3402(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–484]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 459; Pub. L. 94–258, title II, § 201(7), Apr. 5, 1976, 90 Stat. 309; Pub. L. 96–513, title V, § 513(32)(A), (B), Dec. 12, 1980, 94 Stat. 2933; Pub. L. 98–525, title XIV, § 1405(52), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 104–106, div. A, title XV, § 1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774, related to cooperative or unit plans affecting Naval Petroleum Reserve Numbered 1.

SAVINGS PROVISION

Pub. L. 106–398, § 1 [div. C, title XXXIV, § 3402(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–484, provided that: ''The repeal of section 7426 of title 10, United States Code, shall not affect the validity of contracts that are in effect under such section on the day before the date of the enactment of this Act [Oct. 30, 2000]. No such contract may be extended or renewed on or after the date of the enactment of this Act.''

## § 7427. Cooperative or unit plans in the naval petroleum reserves

The Secretary, with the consent of the President, may make agreements, with respect to lands inside the naval petroleum reserves, of the same type as the Secretary of the Interior may make under section 17(m) of the Act of February 25, 1920 (30 U.S.C. 226(m)). No such agreement made by the Secretary may extend the term of any lease unless the agreement so provides.

(Aug. 10, 1956, ch. 1041, 70A Stat. 460; Pub. L. 94–258, title II, § 201(8), Apr. 5, 1976, 90 Stat. 309; Pub. L. 96–513, title V, § 513(33), Dec. 12, 1980, 94 Stat. 2934; Pub. L. 100–456, div. A, title XII, § 1233(g)(3), Sept. 29, 1988, 102 Stat. 2058.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7427 ..... | 30 U.S.C. 236b (last 46 words). | Aug. 8, 1946, ch. 916, § 13 (29th through 85th words) 60 Stat. 958. |

AMENDMENTS

1988—Pub. L. 100–456 substituted ''section 17(m)'' for ''section 17(j)'' and ''30 U.S.C. 226(m)'' for ''30 U.S.C. 226(j)''.

1980—Pub. L. 96–513 substituted ''section 17(j) of the Act of February 25, 1920 (30 U.S.C. 226(j))'' for ''section 226e of title 30''.

1976—Pub. L. 94–258 struck out ''of the Navy'' after ''Secretary'' wherever appearing.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

EX. ORD. NO. 12929. DELEGATION OF AUTHORITY REGARDING NAVAL PETROLEUM AND OIL SHALE RESERVES

Ex. Ord. No. 12929, Sept. 29, 1994, 59 F.R. 50473, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 and sections 7427 and 7428 of title 10, United States Code, and in order to meet the goals and requirements of the Naval Petroleum and Oil Shale Reserves, it is hereby ordered as follows:

The functions vested in the President by sections 7427 and 7428 of title 10 of the United States Code are delegated to the Secretary of Energy.

WILLIAM J. CLINTON.

Temporary delegations of functions of President under this section were contained in the following prior Executive Orders:

Ex. Ord. No. 12784, Dec. 19, 1991, 56 F.R. 66339.

Ex. Ord. No. 12659, Dec. 15, 1988, 53 F.R. 50911.

## § 7428. Agreements and leases: provision for change

Every unit or cooperative plan of development and operation and every lease affecting lands owned by the United States within Naval Petroleum Reserve Numbered 2 and the oil shale reserves shall contain a provision authorizing the Secretary, subject to approval by the President and to any limitation in the plan or lease, to change from time to time the rate of prospecting and development on, and the quantity and rate of production from, lands of the United States under the plan or lease, notwithstanding any other provision of law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 460; Pub. L. 87–796, § 1(5), Oct. 11, 1962, 76 Stat. 905; Pub. L. 94–258, title II, § 201(9), Apr. 5, 1976, 90 Stat. 309; Pub. L. 106–398, § 1 [div. C, title XXXIV, § 3402(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–484.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7428 ..... | 34 U.S.C. 524 (proviso of 6th par.). | June 4, 1920, ch. 228 (6th par., proviso, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, § 1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 282. |

The words ''entered into after July 1, 1937'' and ''entered into subsequent to July 1, 1937'' are omitted as surplusage. The words ''in his discretion'' are omitted as surplusage.

AMENDMENTS

2000—Pub. L. 106–398 struck out '', except a plan authorized by section 7426 of this title,'' after ''development and operation''.

1976—Pub. L. 94–258 substituted ''within Naval Petroleum Reserve Numbered 2 and the oil shale reserves shall contain a provision authorizing the Secretary'' for ''within the naval petroleum and oil shale reserves shall contain a provision authorizing the Secretary of the Navy''.

1962—Pub. L. 87–796 included leases affecting lands within oil shale reserves.

DELEGATION OF FUNCTIONS

Functions of the President under this section were delegated to the Secretary of Energy by Ex. Ord. No. 12929, Sept. 29, 1994, 59 F.R. 50473, set out as a note under section 7427 of this title.

### § 7429. Re-lease of certain lands: lessee's preferential right

The Secretary, on terms prescribed by him, may re-lease lands in the naval petroleum reserves that were covered by leases made before July 1, 1936, and terminated by law at the expiration of their initial twenty-year periods. If any such land is to be re-leased, the Secretary shall give to the former lessee preferential rights to the new lease.

(Aug. 10, 1956, ch. 1041, 70A Stat. 460; Pub. L. 94–258, title II, § 201(10), Apr. 5, 1976, 90 Stat. 309.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7429 ..... | 34 U.S.C. 524 (6th par., less proviso). | June 4, 1920, ch. 228 (6th par., less proviso, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1253; June 17, 1944, ch. 262, 58 Stat. 282. |

The source law provided that leases of lands of the United States within the naval petroleum reserves in existence before July 1, 1936, except leases that had become part of an approved unit or cooperative plan and agreement, should terminate at the end of their initial 20-year period, and that the lands covered by these leases could then be re-leased by the Secretary of the Navy. All of the leases covered by this provision have terminated as provided therein. Thus the provision for the termination of the leases is executed and the only remaining effect of the source is to authorize the release of the lands formerly covered by the terminated leases. This section is worded accordingly. Reference to the classes of leases that were excepted from the termination is omitted as unnecessary because these leases were, of course, not terminated. They are not affected, since this section refers only to leases that were ''terminated by law''. The word ''conditions'' is omitted as included in the word ''terms''.

AMENDMENTS

1976—Pub. L. 94–258 struck out ''of the Navy'' after ''Secretary''.

### § 7430. Disposition of products

(a) In administering the naval petroleum reserves under this chapter, the Secretary shall use, store, or sell the petroleum produced from the naval petroleum reserves and lands covered by joint, unit, or other cooperative plans.

(b)(1) Subject to paragraph (2) and notwithstanding any other provision of law, each sale of the United States share of petroleum shall be made by the Secretary at public sale to the highest qualified bidder, at such time, in such amounts, and after such advertising as the Secretary considers proper and without regard to Federal, State, or local regulations controlling sales or allocation of petroleum products. Each sale of the United States share of petroleum shall be for periods of not more than one year, except that a sale of natural gas may be made for a period of more than one year.

(2) The Secretary may not sell any part of the United States share of petroleum produced from Naval Petroleum Reserves Numbered 2 and 3 at a price less than the current sales price, as estimated by the Secretary, of comparable petroleum in the same area.

(3) For purposes of paragraph (2), the term ''petroleum'' does not include natural gas liquids.

(c) In no event shall the Secretary permit the award of any contract which would result in any person obtaining control, directly or indirectly, over more than 20 percent of the estimated annual United States share of petroleum produced from Naval Petroleum Reserve Numbered 1.

(d) Each proposal for sale under this title shall provide that the terms of every sale of the United States share of petroleum from the naval petroleum reserves shall be so structured as to give full and equal opportunity for the acquisition of petroleum by all interested persons, including major and independent oil producers and refiners alike. When the Secretary, in consultation with the Secretary of the Interior, determines that the public interests will be served by the sale of petroleum to small refiners not having their own adequate sources of supply of petroleum, the Secretary is authorized and directed to set aside a portion of the United States share of petroleum produced for sale to such refiners under the provisions of this section for processing or use in such refineries, except that—

(1) none of the production sold to small refiners may be resold in kind;

(2) production must be sold at a cost of not less than the prevailing local market price of comparable petroleum;

(3) the set-aside portion may not exceed 25 percent of the estimated annual United States share of the total production from all producing naval petroleum reserves; and

(4) notwithstanding the provisions of subsection (b), the Secretary may, at his discretion if he deems it to be in the public interest, prorate such petroleum among such refiners for sale, without competition, at not less than the prevailing local market price of comparable petroleum.

(e) Any petroleum produced from the naval petroleum reserves, except such petroleum which is either exchanged in similar quantities for convenience or increased efficiency or transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and, in addition, before any petroleum subject to this section may be exported under the limitations and licensing requirement and penalty and enforcement provisions of the Export Administration Act of 1979, the President must make and publish an express finding that such exports will not diminish the total quality or quantity of petroleum available to the United States and that

such exports are in the national interest and are in accord with the Export Administration Act of 1979.

(f) During the period of production or any extension thereof authorized by section 7422(c) of this title, the consultation and approval requirements of section 7431(a)(3) of this title are waived.

(g)(1) Prior to the promulgation of any rules and regulations, plans of development and amendments thereto, and in the entering and making of contracts and operating agreements relating to the development, production, or sale of petroleum in or from the reserves, the Secretary shall consult with and give due consideration to the views of the Attorney General of the United States with respect to matters which may affect competition.

(2) No contract or operating agreement may be made, issued, or executed under this chapter until at least 15 days after the Secretary notifies the Attorney General of the proposed contract or operating agreement. Such notification shall contain such information as the Attorney General may require in order to advise the Secretary as to whether such contract or operating agreement may create or maintain a situation inconsistent with the antitrust laws. If, within such 15-day period, the Attorney General advises the Secretary that a contract or operating agreement may create or maintain a situation inconsistent with the antitrust laws, then the Secretary may not make, issue, or execute that contract or operating agreement.

(h) Nothing in this chapter shall be deemed to confer on any person immunity from civil or criminal liability, or to create defenses to actions, under the antitrust laws.

(i) In this section, the term ''antitrust laws'' means—

(1) the Sherman Act (15 U.S.C. 1 et seq.);

(2) the Clayton Act (15 U.S.C. 12 et seq.);

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

(4) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9); and

(5) sections 2, 3, and 4 of the Act of June 19, 1936 (commonly referred to as the ''Robinson-Patman Act'') (15 U.S.C. 13a, 13b, and 21a).

(j) Any pipeline which accepts, conveys, or transports any petroleum produced from Naval Petroleum Reserves Numbered 1 or Numbered 3 shall accept, convey, and transport without discrimination and at reasonable rates any such petroleum as a common carrier insofar as petroleum from such reserves is concerned. Every contract entered into by the Secretary for the sale of any petroleum owned by the United States which is produced from such reserves shall contain provisions implementing the requirements of the preceding sentence if the contractor owns a controlling interest in any pipeline or any company operating any pipeline, or is the operator of any pipeline, which carries any petroleum produced from such naval petroleum reserves. The Secretary may promulgate rules and regulations for the purpose of carrying out the provisions of this section and he, or the Secretary of the Interior where the authority extends to him, may declare forfeit any contract, operating agreement, right-of-way, permit, or easement held by any person violating any such rule or regulation. This section shall not apply to any natural gas common carrier pipeline operated by any person subject to regulation under the Natural Gas Act (15 U.S.C. 717 et seq.) or any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality.

(k)(1) With respect to all or any part of the United States share of petroleum produced from the naval petroleum reserves, the President may direct that the Secretary—

(A) place that petroleum in the Strategic Petroleum Reserve as authorized by sections 151 through 166 of the Energy Policy and Conservation Act (42 U.S.C. 6231–6246); or

(B) exchange, directly or indirectly, that petroleum for other petroleum to be placed in the Strategic Petroleum Reserve under such terms and conditions and by such methods as the Secretary determines to be appropriate, without regard to otherwise applicable Federal procurement statutes and regulations.

(2) The requirements of section 159 of the Energy Policy and Conservation Act (42 U.S.C. 6239) do not apply to actions taken under this subsection.

(*l*)(1) Notwithstanding any other provision of this chapter (but subject to paragraph (2)), during any period in which the production of petroleum is authorized from Naval Petroleum Reserves Numbered 1, 2, or 3, the Secretary, at the request of the Secretary of Defense, may provide any portion of the United States share of petroleum so produced to the Department of Defense for its use, exchange, or sale in order to meet petroleum product requirements of the Department of Defense.

(2) Petroleum may be provided to the Department of Defense under paragraph (1) either directly or by such exchange as the Secretary deems appropriate. Appropriate reimbursement reasonably reflecting the fair market value shall be provided by the Secretary of Defense for petroleum provided under this subsection.

(3) Any exchange made pursuant to this subsection may be made without regard to otherwise applicable Federal procurement statutes and regulations.

(4) Paragraph (1) does not apply to any petroleum set aside for small refiners under subsection (d) or placed in the Strategic Petroleum Reserve under subsection (k).

(Aug. 10, 1956, ch. 1041, 70A Stat. 460; Pub. L. 87–599, § 2, Aug. 24, 1962, 76 Stat. 401; Pub. L. 87–796, § 1(6), Oct. 11, 1962, 76 Stat. 905; Pub. L. 94–258, title II, § 201(11), Apr. 5, 1976, 90 Stat. 309; Pub. L. 96–294, title VIII, § 804, June 30, 1980, 94 Stat. 777; Pub. L. 96–513, title V, § 513(34), Dec. 12, 1980, 94 Stat. 2934; Pub. L. 97–22, § 11(a)(10), July 10, 1981, 95 Stat. 138; Pub. L. 98–525, title XIV, § 1405(53), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 99–413, § 1(b), (c), Aug. 29, 1986, 100 Stat. 944, 945; Pub. L. 100–26, § 7(k)(9), Apr. 21, 1987, 101 Stat. 284; Pub. L. 100–202, § 101(g) [title II, § 201], Dec. 22, 1987, 101 Stat. 1329–213, 1329–242; Pub. L. 100–456, div. A, title XII, § 1233(e)(2), Sept. 29, 1988, 102 Stat. 2057; Pub. L. 106–398, § 1 [div. C,

title XXXIV, § 3401], Oct. 30, 2000, 114 Stat. 1654, 1654A–484; Pub. L. 107–107, div. A, title X, § 1048(e)(12), Dec. 28, 2001, 115 Stat. 1228.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7430(a) ..... | 34 U.S.C. 524 (244th through 293d words of 1st par.). | June 4, 1920, ch. 228 (1st par., 244th through 293d words, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, § 1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 281. |
| 7430(b) ..... | 34 U.S.C. 524 (2d sentence of 3d par.). | June 4, 1920, ch. 228 (3d par., 2d sentence, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, § 1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 281. |

In subsection (a) the words ''subject to the applicable limitations and restrictions of this Act'' are omitted as surplusage and the words ''in administering'' are inserted.

In subsection (b) the words ''under this section'' are substituted for the words ''from the naval reserves'' to make it clear that the requirements of this subsection apply to sales of petroleum, gas, and other hydrocarbons from lands outside petroleum reserve numbered 1 covered by joint, unit, or other cooperative plans as well as the sale of those products from the naval reserves proper. Subsection (a) is the only authority for the sale of petroleum, gas, and other hydrocarbons from the naval petroleum reserves.

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (e), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to section 2401 et seq. of the Appendix to Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of the Appendix to Title 50 and Tables.

The Sherman Act, referred to in subsec. (i)(1), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Clayton Act, referred to in subsec. (i)(2), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act, referred to in subsec. (i)(3), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

Sections 73 and 74 of the Wilson Tariff Act, referred to in subsec. (i)(4), are sections 73 and 74 of act Aug. 27, 1894, ch. 349, 28 Stat. 570, which enacted sections 8 and 9, respectively, of Title 15.

Act of June 19, 1936, referred to in subsec. (i)(5), is act June 19, 1936, ch. 592, 49 Stat. 1526, popularly known as the Robinson-Patman Antidiscrimination Act and also as the Robinson-Patman Price Discrimination Act, which enacted sections 13a, 13b, and 21a of Title 15 and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

The Natural Gas Act, referred to in subsec. (j), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§ 717 et seq.) of Title 15. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables.

AMENDMENTS

2001—Subsec. (b)(2). Pub. L. 107–107 substituted ''at a price less than the current sales price'' for ''at a price less than the higher of— (A) the current sales price'', substituted a period for ''; or'' after ''petroleum in the same area'', and struck out subpar. (B) which read as follows: ''the price of petroleum being purchased for the Strategic Petroleum Reserve, minus the cost of transporting petroleum from the naval petroleum reserve concerned to the nearest storage area of the Strategic Petroleum Reserve, with adjustments for the difference in the quality of the petroleum being purchased for the Strategic Petroleum Reserve and petroleum being produced from the naval petroleum reserve concerned.''

2000—Subsec. (b)(2). Pub. L. 106–398 substituted ''Naval Petroleum Reserves Numbered 2 and 3'' for ''Naval Petroleum Reserves Numbered 1, 2, and 3'' in introductory provisions and struck out ''90 percent of'' before ''the current sales price'' in subpar. (A).

1988—Subsec. (b)(3). Pub. L. 100–456 realigned margin of par. (3) and substituted a period for comma at end.

1987—Subsec. (b)(3). Pub. L. 100–202 added par. (3).

Subsec. (i). Pub. L. 100–26 substituted ''In'' for ''As used in''.

1986—Subsec. (b). Pub. L. 99–413, § 1(b), designated existing provisions as par. (1), substituted ''Subject to paragraph (2) and notwithstanding'' for ''Notwithstanding'', and added par. (2).

Subsec. (g)(2). Pub. L. 99–413, § 1(c), substituted ''15 days'' for ''30 days'' and ''15-day'' for ''30-day''.

1984—Subsec. (d)(4). Pub. L. 98–525, § 1405(53)(A), struck out ''of this section'' after ''subsection (b)''.

Subsec. (g)(2). Pub. L. 98–525, § 1405(53)(B), substituted ''30 days'' for ''thirty days'' and ''30-day'' for ''thirty day''.

Subsec. (*l*)(4). Pub. L. 98–525, § 1405(53)(C), struck out ''of this section'' after ''subsection (d)'' and ''subsection (k)''.

1981—Subsec. (e). Pub. L. 97–22 substituted ''Export Administration Act of 1979'' for ''Export Administration Act of 1969'' in three places.

1980—Subsec. (b). Pub. L. 96–294, § 804(a), struck out ''for periods of not more than one year,'' after ''qualified bidder,'' and inserted last sentence limiting sales of the United States share of petroleum to periods of not more than one year, except for sales of natural gas.

Subsecs. (c), (d)(3). Pub. L. 96–513(34)(A), substituted ''percent'' for ''per centum''.

Subsec. (e). Pub. L. 96–513, § 513(34)(B), substituted ''(50 U.S.C. App. 2401 et seq.)'' for ''(83 Stat. 841)''.

Subsec. (f). Pub. L. 96–513, § 513(34)(C), inserted references to this title wherever appearing.

Subsec. (i). Pub. L. 96–513, § 513(34)(D), substituted ''(1) the Sherman Act (15 U.S.C. 1 et seq.);'', ''(2) the Clayton Act (15 U.S.C. 12 et seq.);'', ''(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);'', ''(4) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9); and'', and ''(5) sections 2, 3, and 4 of the Act of June 19, 1936 (commonly referred to as the 'Robinson-Patman Act') (15 U.S.C. 13a, 13b, and 21a).'' for ''(1) the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;'' ''(2) the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;'' ''(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;'' ''(4) sections 73 and 74 of the Act entitled 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes', approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; or'', and ''(5) sections 2, 3, and 4 of the Act of June 19, 1936, chapter 592 (15 U.S.C. 13a, 13b, and 21a)'', respectively.

Subsec. (j). Pub. L. 96–513, § 513(34)(E), inserted ''(15 U.S.C. 717 et seq.)''.

Subsec. (k). Pub. L. 96–294, § 804(b), amended subsec. (k) generally, inserting references to the Secretary, provision authorizing the exchange of petroleum under

terms and conditions determined appropriate without regard to Federal procurement statutes and regulations, and provision making 42 U.S.C. 6239 inapplicable.

Subsec. (*l*). Pub. L. 96–294, § 804(c), added subsec. (*l*).

1976—Subsec. (a). Pub. L. 94–258 substituted provisions setting forth requirements for Secretary in administering naval petroleum reserves under this chapter, for provisions setting forth requirements for Secretary of the Navy in administering naval petroleum and oil shale reserves under this chapter.

Subsec. (b). Pub. L. 94–258 inserted ''Notwithstanding any other provision of law'' before ''each sale'', reference to United States share of petroleum, provision relating to periods of sale, and provision exempting Federal, State, or local regulations controlling sales or allocation of petroleum products, and struck out applicability to sales of gas, other hydrocarbons, oil shale, or products therefrom.

Subsecs. (c) to (k). Pub. L. 94–258 added subsecs. (c) to (k).

1962—Subsec. (a). Pub. L. 87–796 included provision for administration of oil shale reserves, required the Secretary of the Navy to use, store, sell, or exchange oil shale and products therefrom produced from oil shale reserves for other petroleum or refined products, and deleted provision which required the Secretary to use, store, sell, or exchange gas products from lands in the South Barrow gas field of naval petroleum reserve numbered 4 for other petroleum or refined products.

Pub. L. 87–599 required the Secretary of the Navy to use, store, sell, or exchange gas products from lands in the South Barrow gas field of naval petroleum reserve numbered 4 for other petroleum or refined products.

Subsec. (b). Pub. L. 87–796 included sale of oil shale and products from petroleum, gas, other hydrocarbons, and oil shale.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

DELEGATION OF FUNCTIONS

Functions vested in President by subsec. (k) of this section delegated to Secretary of Energy by section 1–102 of Ex. Ord. No. 12231, Aug. 4, 1980, 45 F.R. 52139, set out as a note under section 6240 of Title 42, The Public Health and Welfare.

MINIMUM SELLING PRICE OF UNITED STATES SHARE OF PETROLEUM

Pub. L. 106–291, title II, Oct. 11, 2000, 114 Stat. 976, provided in part: ''That the requirements of 10 U.S.C. 7430(b)(2)(B) shall not apply to fiscal year 2001 and any fiscal year thereafter''.

Similar provisions were contained in the following appropriation and authorization acts:

Pub. L. 106–113, div. B, § 1000(a)(3) [title II], Nov. 29, 1999, 113 Stat. 1535, 1501A–179.

Pub. L. 105–277, div. A, § 101(e) [title II], Oct. 21, 1998, 112 Stat. 2681–231, 2681–276.

Pub. L. 105–85, div. C, title XXXIV, § 3402, Nov. 18, 1997, 111 Stat. 2059.

Pub. L. 105–83, title II, Nov. 14, 1997, 111 Stat. 1580.

Pub. L. 104–208, div. A, title I, § 101(d) [title II], Sept. 30, 1996, 110 Stat. 3009–181, 3009–210.

Pub. L. 104–201, div. C, title XXXIV, § 3402, Sept. 23, 1996, 110 Stat. 2858.

Pub. L. 104–134, title I, § 101(c) [title II], Apr. 26, 1996, 110 Stat. 1321–156, 1321–187; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 104–106, div. C, title XXXIV, § 3402, Feb. 10, 1996, 110 Stat. 631.

Pub. L. 103–337, div. C, title XXXV, § 3502, Oct. 5, 1994, 108 Stat. 3111.

Pub. L. 103–332, title II, Sept. 30, 1994, 108 Stat. 2525.

Pub. L. 103–138, title II, Nov. 11, 1993, 107 Stat. 1405.

## § 7431. Requirements as to consultation and approval

(a) The Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives must be consulted and the President's approval must be obtained before any condemnation proceedings may be started under this chapter and before any of the following transactions authorized by this chapter may be effective:

(1) A lease of any part of the naval petroleum reserves.

(2) A contract to alienate from the United States the use, control, or possession of any part of the naval petroleum reserves (except that consultation and Presidential approval are not required in connection with the issuance of permits, licenses, easements, grazing and agricultural leases, rights-of-way, and similar contracts pertaining to use of the surface area of the naval petroleum reserves).

(3) A contract to sell the petroleum (other than royalty oil and gas) produced from any part of the naval petroleum reserves.

(4) A contract for conservation or for compensation for estimated drainage.

(5) An agreement to exchange land, the right to royalty production, or the right to any money due the United States.

(b)(1) During the period of production authorized by section 7422(c) of this title, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives any new plans or substantial amendments to ongoing plans for the exploration, development, and production of the naval petroleum reserves.

(2) All plans or substantial amendments submitted to the Congress pursuant to this section shall contain a report by the Attorney General of the United States with respect to the anticipated effects of such plans or amendments on competition. Such plans or amendments shall not be implemented until sixty days after such plans or amendments have been submitted to such committees.

(c) During the period of production authorized by section 7422(c) of this title, the Secretary shall submit annual reports as of the first day of the fiscal year to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, and such committees shall cause such reports to be printed as a Senate or House document, as appropriate. The Secretary shall include in such reports, with respect to each naval petroleum reserve, an explanation in detail of the following:

(1) The status of the exploration, development, and production programs.

(2) The production that has been achieved, including the disposition of such production and the proceeds realized therefrom.

(3) The status of pipeline construction and procurement and problems related to the availability of transportation facilities.

(4) A summary of future plans for exploration, development, production, disposal, and transportation of the production from the naval petroleum reserves.

(5) Such other information regarding the reserve as the Secretary deems appropriate.

(Aug. 10, 1956, ch. 1041, 70A Stat. 460; Pub. L. 87–796, § 1(7), Oct. 11, 1962, 76 Stat. 905; Pub. L. 94–258, title II, § 201(12), Apr. 5, 1976, 90 Stat. 311; Pub. L. 98–525, title XIV, § 1405(52), Oct. 19, 1984, 98 Stat. 2625; Pub. L. 99–145, title XIII, § 1303(a)(25), Nov. 8, 1985, 99 Stat. 740; Pub. L. 104–106, div. A, title XV, § 1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7431 ..... | 34 U.S.C. 524 (1st proviso of 4th par.). | June 4, 1920, ch. 228 (4th par., 1st proviso, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, § 1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 282. |

AMENDMENTS

1999—Subsecs. (a), (b)(1), (c). Pub. L. 106–65 substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security''.

1996—Subsecs. (a), (b)(1), (c). Pub. L. 104–106 substituted ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives'' for ''Committees on Armed Services of the Senate and the House of Representatives''.

1985—Subsec. (c). Pub. L. 99–145 in pars. (1) to (3) substituted ''The'' for ''the'' at beginning and periods for the semicolons at end, in par. (4) substituted ''A summary'' for ''a summary'' and a period for ''; and'', and in par. (5) substituted ''Such'' for ''such''.

1984—Subsecs. (b)(1), (c). Pub. L. 98–525 inserted ''of this title'' after ''section 7422(c)''.

1976—Pub. L. 94–258 designated existing provisions as subsec. (a), struck out ''or oil shale'' in pars. (1) and (2) before ''reserves'', struck out ''and oil shale'' in pars. (2) and (3), before ''reserves'' substituted ''petroleum (other than royalty oil and gas)'' for ''oil and gas (other than royalty oil and gas), oil shale, and products therefrom'' in par. (3), and added subsecs. (b) and (c).

1962—Pub. L. 87–796 included oil shale reserves in cls. (1) and (2), inserted provisions in cl. (2) excepting consultation and Presidential approval in connection with issuance of permits, licenses, easements, grazing and agricultural leases, rights-of-way, and similar contracts pertaining to use of surface area of naval petroleum and oil shale reserves, and included oil shale, and products therefrom produced from any part of oil shale reserves.

CONTRACT FOR STUDIES OF POTENTIAL TRANSFER OUT OF FEDERAL CONTROL OF FACILITIES AND FUNCTIONS AT ELK HILLS AND TEAPOT DOME; RESTRICTIONS

Pub. L. 101–45, title I, § 501, June 30, 1989, 103 Stat. 103, provided that no funds appropriated or made available under Pub. L. 101–45 or any other Act were to be used by the executive branch to contract with organizations outside Department of Energy to perform studies of potential transfer out of Federal ownership, management or control by sale, lease, or other disposition, in whole or in part, of facilities and functions of Naval Petroleum Reserve Numbered 1 (Elk Hills) and Naval Petroleum Reserve Numbered 3 (Teapot Dome), and prohibited negotiation of changes to unit plan contract with Chevron which governed operation of Elk Hills, where purpose of changes was to prepare for divestiture of the Reserve, prior to repeal by Pub. L. 104–134, title I, § 101(c) [title II], Apr. 26, 1996, 110 Stat. 1321–156, 1321–187; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

## § 7432. Authorizations of appropriations

(a) Funds for the following purposes may not be appropriated unless such appropriations have been specifically authorized by law:

(1) Exploration, prospecting, conservation, development, use, operations, and production of the naval petroleum reserves as authorized by this chapter.

(2) Production (including preparation for production) as authorized by this chapter or as may be authorized after April 5, 1976.

(3) The construction and operation of facilities both within and outside the naval petroleum reserves incident to the production and the delivery of petroleum, including pipelines and shipping terminals.

Sums appropriated for such purposes shall remain available until expended.

(b) Contracts under this chapter providing for the obligation of funds may be entered into for a period of five years, renewable for an additional five-year period; however, such contracts may obligate funds only to the extent that such funds are made available in appropriation Acts.

(Aug. 10, 1956, ch. 1041, 70A Stat. 461; Pub. L. 87–796, § 1(8), Oct. 11, 1962, 76 Stat. 905; Pub. L. 94–258, title II, § 201(13), Apr. 5, 1976, 90 Stat. 312; Pub. L. 96–137, § 3(b)(1), Dec. 12, 1979, 93 Stat. 1061; Pub. L. 96–513, title V, § 513(35), Dec. 12, 1980, 94 Stat. 2934.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7432 ..... | 34 U.S.C. 524 (3d par., less 2d sentence; 5th par., 124th through 168th words). | June 4, 1920, ch. 228 (3d par., less 2d sentence; 5th par., 124th through 168th words, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, § 1, 52 Stat. 1252; June 17, 1944, ch. 262, 58 Stat. 281. |

In subsection (a) the words ''by the Congress'' are omitted as surplusage.

In subsection (b) the words ''There is authorized to be appropriated'' are omitted as surplusage.

AMENDMENTS

1980—Subsec. (a)(1). Pub. L. 96–513 substituted a period for the semicolon at the end.

1979—Pub. L. 96–137 struck out provisions relating to the naval petroleum reserves special account.

1976—Pub. L. 94–258 substituted ''Naval petroleum reserves special account'' for ''Expenditures: appropriations chargeable'' in section catchline.

Subsec. (a). Pub. L. 94–258 substituted provisions establishing a special account on the books of the Treasury Department to be designated as the ''naval petroleum reserves special account'', and authorizing to be credited proceeds resulting from the sale or exchange of the United States share of petroleum, refined petroleum products, appropriation funds, royalties, or other revenue from the operation of the reserves, for provisions authorizing the expenditure of funds from available appropriations for expenses incurred in the administration of the reserves.

Subsec. (b). Pub. L. 94–258 substituted provisions which made funds in the naval petroleum reserve special account available in sums specified in annual appropriations acts for enumerated expense items, for provisions which authorized expenditures to be made under the direction of the President and requiring the President to submit an estimate of expenditures necessary to carry out the purposes of this chapter.

Subsecs. (c), (d). Pub. L. 94–258 added subsecs. (c) and (d).

1962—Subsec. (a). Pub. L. 87–796 substituted ''with respect to the naval petroleum and oil shale reserves shall be paid from appropriations made available for the purposes specified in this chapter'' for ''in exploring, prospecting, conserving, developing, using and operating lands owned or controlled by the United States in the naval petroleum reserves, and in producing petroleum, and the share of the United States of expenses incurred under any contract entered into under this chapter, shall be paid from appropriations made available for those purposes''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

ABOLITION OF NAVAL PETROLEUM RESERVES SPECIAL ACCOUNT

Section 3(c) of Pub. L. 96–137 provided that: ''The naval petroleum reserves special account established by section 7432 of title 10, United States Code, as in existence on the day before the date of the enactment of this Act [Dec. 12, 1979], is abolished. Unappropriated balances of funds in the naval petroleum reserves special account on the date of the enactment of this Act shall be transferred on the books of the Treasury into miscellaneous receipts, and all moneys accruing to the United States after such date under chapter 641 of title 10, United States Code, shall be covered into the Treasury as miscellaneous receipts.''

## § 7433. Disposition of royalties

(a) Any oil, gas, gasoline or other substance accruing to the United States as royalty from any lease under this chapter shall be delivered to the United States, or shall be paid for in money, as the Secretary elects.

(b) All money accruing to the United States from lands in the naval petroleum reserves shall be covered into the Treasury.

(Aug. 10, 1956, ch. 1041, 70A Stat. 461; Pub. L. 87–796, § 1(9), Oct. 11, 1962, 76 Stat. 905; Pub. L. 94–258, title II, § 201(14), (15), Apr. 5, 1976, 90 Stat. 313.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7433 ..... | 34 U.S.C. 524 (10th par.). | June 4, 1920, ch. 228 (10th par. of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, § 1, 52 Stat. 1254; June 17, 1944, ch. 262, 58 Stat. 281. |

In subsection (a) the words ''or all'' are omitted as surplusage. The words ''under this chapter'' are substituted for the words ''of lands within the naval petroleum reserves or other naval fuel reserves under the authority of this section'' for brevity. The words ''be delivered to the United States, or shall be paid for in money'' are substituted for the words ''be paid for in money or be paid in kind'' for clarity. Neither gas, oil, gasoline, nor hydrocarbon can be ''paid'', but any one of them may be delivered.

In subsection (b) the words ''except as otherwise provided in this section'' are omitted as surplusage. There is no exception within the chapter to the rule stated in subsection (b). The word ''paid'' is substituted for the words ''which may accrue'' for clarity. The words ''under this chapter'' are substituted for the words ''under the provisions of this section or of sections * * * on account of the petroleum products extracted therefrom'' for brevity. The two terms are coextensive. The sections of 30 U.S.C. that are cited in 34 U.S.C. 524 (10th par.) comprise the entire Act of Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended. The application of that Act to the Navy is covered in § 7427 of this title. The words ''as miscellaneous receipts'' are omitted as surplusage.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–258, § 201(14), struck out ''of the Navy'' after ''Secretary''.

Subsec. (b). Pub. L. 94–258, § 201(15), struck out ''and oil shale'' after ''petroleum''.

1962—Subsec. (a). Pub. L. 87–796 substituted ''or other substance'' for ''or other hydrocarbon substance''.

Subsec. (b). Pub. L. 87–796 substituted ''All money accruing to the United States from lands in the naval petroleum and oil shale reserves'' for ''Money paid to the United States for petroleum products under this chapter''.

## [§ 7434. Repealed. Pub. L. 104–66, title I, § 1051(g), Dec. 21, 1995, 109 Stat. 716]

Section, acts Aug. 10, 1956, ch. 1041, 70A Stat. 461; Sept. 2, 1958, Pub. L. 85–861, § 33(a)(35), 72 Stat. 1566; Oct. 11, 1962, Pub. L. 87–796, § 1(10), 76 Stat. 906; Apr. 5, 1976, Pub. L. 94–258, title II, § 201(16), 90 Stat. 313; Dec. 12, 1980, Pub. L. 96–513, title V, § 513(36), 94 Stat. 2934; Nov. 5, 1990, Pub. L. 101–510, div. A, title XIII, § 1311(7), 104 Stat. 1670, directed Secretary to submit annual report to Congress on production from naval petroleum reserves during the preceding year. Pub. L. 104–106, div. A, title XV, § 1502(a)(28)(A), Feb. 10, 1996, 110 Stat. 506, which directed the general amendment of this section, could not be executed because of prior repeal by Pub. L. 104–66.

## § 7435. Foreign interest

(a) If the laws, customs, or regulations of any foreign country deny the privilege of leasing public lands to citizens or corporations of the United States, citizens of that foreign country, or corporations controlled by citizens of that country, may not, by contract made after July 1, 1937, or by stock ownership, holding, or control, acquire or own any interest in, or right to any benefit from, any lease of land in the naval petroleum, naval oil shale, or other naval fuel reserves made under sections 181–184, 185–188, 189–194, 201, 202–209, 211–214, 223, 224–226, 226d, 226e, 227–229a, 241, 251, and 261–263 of title 30, or under this chapter.

(b) The Secretary may cancel any lease for any violation of this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 461; Pub. L. 87–796, § 1(11), Oct. 11, 1962, 76 Stat. 906; Pub. L. 94–258, title II, § 201(17), Apr. 5, 1976, 90 Stat. 313.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7435 ..... | 34 U.S.C. 524 (8th par.). | June 4, 1920, ch. 228 (8th par. of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, § 1, 52 Stat. 1254; June 17, 1944, ch. 262, 58 Stat. 281. |

In subsection (a) the words ''foreign country'' are substituted for the words ''another country'' for clarity.

In subsection (b) the word ''for'' is substituted for the words ''in the event of'' for brevity.

REFERENCES IN TEXT

Section 194 of title 30, referred to in subsec. (a), was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 644.

Section 204 of title 30, referred to in subsec. (a), was repealed by Pub. L. 94–377, § 13(a), Aug. 4, 1976, 90 Stat. 1090, subject to valid existing rights.

Sections 226d and 226e of title 30, referred to in subsec. (a), were omitted from the Code. See section 226 of Title 30, Mineral Lands and Mining.

Section 227 of title 30, referred to in subsec. (a), was omitted from the Code.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–258 struck out ''of the Navy'' after ''Secretary''.

1962—Subsec. (a). Pub. L. 87–796 substituted ''land in the naval petroleum, naval oil shale, or other naval fuel reserves'' for ''land in the naval petroleum or other naval fuel reserves''.

### § 7436. Regulations

(a) The Secretary may prescribe regulations and take any proper action to accomplish the purposes of this chapter.

(b) All statements, reports, and representations required by the regulations shall be under oath, unless otherwise specified, and in such form as the Secretary requires.

(Aug. 10, 1956, ch. 1041, 70A Stat. 461; Pub. L. 94–258, title II, § 201(18), Apr. 5, 1976, 90 Stat. 313.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7436 ..... | 34 U.S.C. 524 (9th par.). | June 4, 1920, ch. 228 (9th par. of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1254; June 17, 1944, ch. 262, 58 Stat. 281. |

In subsection (a) the words ''necessary rules and'' are omitted as surplusage, and the words ''to take any proper action'' are substituted for the words ''to do any and all things necessary or proper'' for brevity.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–258 struck out ''of the Navy, subject to approval by the President,'' after ''Secretary''.

### § 7437. Violations by lessee

(a) If a lessee fails to comply with any provision of this chapter, of his lease, or of regulations issued under section 7436 of this title that are in force on the date of his lease, the lease may be forfeited and cancelled by an appropriate proceeding in the United States district court for the district in which any part of the property is located.

(b) The lease may provide appropriate methods for the settlement of disputes and remedies for breach of specified conditions.

(Aug. 10, 1956, ch. 1041, 70A Stat. 461.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7437 ..... | 34 U.S.C. 524 (11th par., less proviso). | June 4, 1920, ch. 228 (11th par., less proviso, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1254; June 17, 1944, ch. 262, 58 Stat. 281. |

In subsection (a) the words ''the district in which any part of the property is located'' are substituted for the words ''the district in which the property, or some part thereof, is located,'' for brevity.

In subsection (b) the words ''for resort to'' and ''for'' are omitted as surplusage.

### § 7438. Rifle, Colorado, plant; possession, use, and transfer of

(a) The Secretary shall take possession of the experimental demonstration facility near Rifle, Colorado, which was constructed and operated by the Department of the Interior on lands on or near the naval oil shale reserves under the Act of April 5, 1944 (30 U.S.C. 321 et seq.).

(b) The Secretary, subject to the approval of the President, shall by contract, lease, or otherwise encourage the use of the facility described in subsection (a) in research, development, test, evaluation, and demonstration work. For such purposes the Secretary may use or lease for use by institutions, organizations, or individuals, public or private, the facility described in subsection (a) and may construct, install, and operate, or lease for operation additional experimental facilities on such lands. The Secretary may, after consultation with the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, mine and remove, or authorize the mining and removal, of any oil shale or products therefrom from lands in the naval oil shale reserves that may be needed for such experimentation.

(c) Nothing in this chapter shall be construed—

(1) to authorize the commercial development and operation of the naval oil shale reserves by the Government in competition with private industry; or

(2) in diminution of the responsibility of the Secretary in providing oil shale and products therefrom for needs of national defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 462; Pub. L. 87–796, § 1(12), Oct. 11, 1962, 76 Stat. 906; Pub. L. 94–258, title II, § 201(19), Apr. 5, 1976, 90 Stat. 313; Pub. L. 96–513, title V, § 513(37), Dec. 12, 1980, 94 Stat. 2934; Pub. L. 104–106, div. A, title XV, § 1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7438 ..... | 34 U.S.C. 524 (proviso of 11th par.). | June 4, 1920, ch. 228 (11th par., proviso, of amended 3d and 4th provisos), 41 Stat. 813; June 30, 1938, ch. 851, §1, 52 Stat. 1254; June 17, 1944, ch. 262, 58 Stat. 281. |

The words ''this chapter does not authorize'' are substituted for the words ''nothing herein contained shall be construed to permit'' for brevity.

REFERENCES IN TEXT

Act April 5, 1944, referred to in subsec. (a), is act Apr. 5, 1944, ch. 172, 58 Stat. 190, as amended, which is classified generally to chapter 6 (§ 321 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code see Tables.

AMENDMENTS

1999—Subsec. (b). Pub. L. 106–65 substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security''.

1996—Subsec. (b). Pub. L. 104–106 substituted ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives'' for ''Committees on Armed Services of the Senate and the House of Representatives''.

1980—Subsec. (a). Pub. L. 96–513, § 513(37)(A), substituted provisions relating to authority of the Secretary under the specified statute, for provisions relating to authority of the Administrator of the Energy Research and Development Administration under the specified statute.

Subsec. (b). Pub. L. 96–513, § 513(37)(B), substituted provisions relating to authorities of the Secretary, for provisions relating to authorities of the Administrator of the Energy Research and Development Administration.

Subsec. (c). Pub. L. 96–513, § 513(37)(C), substituted ''in this chapter'' for ''herein contained''.

1976—Subsec. (a). Pub. L. 94–258 substituted ''Administrator of the Energy Research and Development Administration'' for ''Secretary of the Interior''.

Subsec. (b). Pub. L. 94–258 substituted ''Administrator of the Energy Research and Development Administration'' for ''Secretary of the Interior'' wherever appearing therein and struck out ''of the Navy'' after ''Secretary'' wherever appearing.

Subsec. (c). Pub. L. 94–258 struck out ''of the Navy'' after ''Secretary''.

1962—Pub. L. 87–796 amended section generally by substituting provisions relating to the possession, use, and transfer of the experimental demonstration facility near Rifle, Colorado, for provisions which stated that this chapter does not authorize the development or operation of the naval oil-shale reserves.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

## § 7439. Certain oil shale reserves: transfer of jurisdiction and petroleum exploration, development, and production

(a) TRANSFER REQUIRED.—(1) Upon the enactment of this section, the Secretary of Energy shall transfer to the Secretary of the Interior administrative jurisdiction over all public domain lands included within Oil Shale Reserve Numbered 1 and those public domain lands included within the undeveloped tracts of Oil Shale Reserve Numbered 3.

(2) Not later than November 18, 1998, the Secretary of Energy shall transfer to the Secretary of the Interior administrative jurisdiction over those public domain lands included within the developed tract of Oil Shale Reserve Numbered 3, which consists of approximately 6,000 acres and 24 natural gas wells, together with pipelines and associated facilities.

(3) Notwithstanding the transfer of jurisdiction, the Secretary of Energy shall continue to be responsible for all environmental restoration, waste management, and environmental compliance activities that are required under Federal and State laws with respect to conditions existing on the lands at the time of the transfer.

(4) Upon the transfer to the Secretary of the Interior of jurisdiction over public domain lands under this subsection, the other provisions of this chapter shall cease to apply with respect to the transferred lands.

(b) AUTHORITY TO LEASE.—(1) Beginning on November 18, 1997, or as soon thereafter as practicable, the Secretary of the Interior shall enter into leases with one or more private entities for the purpose of exploration for, and development and production of, petroleum (other than in the form of oil shale) located on or in public domain lands in Oil Shale Reserves Numbered 1 and 3 (including the developed tract of Oil Shale Reserve Numbered 3). Any such lease shall be made in accordance with the requirements of the Mineral Leasing Act (30 U.S.C. 181 et seq.) regarding the lease of oil and gas lands and shall be subject to valid existing rights.

(2) Notwithstanding the delayed transfer of the developed tract of Oil Shale Reserve Numbered 3 under subsection (a)(2), the Secretary of the Interior shall enter into a lease under paragraph (1) with respect to the developed tract before November 18, 1998.

(c) MANAGEMENT.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall manage the lands transferred under subsection (a) in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other laws applicable to the public lands.

(d) TRANSFER OF EXISTING EQUIPMENT.—The lease of lands by the Secretary of the Interior under this section may include the transfer, at fair market value, of any well, gathering line, or related equipment owned by the United States on the lands transferred under subsection (a) and suitable for use in the exploration, development, or production of petroleum on the lands.

(e) COST MINIMIZATION.—The cost of any environmental assessment required pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in connection with a proposed lease under this section shall be paid out of unobligated amounts available for administrative expenses of the Bureau of Land Management.

(f) TREATMENT OF RECEIPTS.—(1) Notwithstanding section 35 of the Mineral Leasing Act (30 U.S.C. 191), all moneys received during the period specified in paragraph (2) from a lease under this section (including moneys in the form of sales, bonuses, royalties (including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.)), and rentals) shall be covered into the Treasury of the United States and shall not be subject to distribution to the States pursuant to subsection (a) of such section 35.

(2) The period referred to in this subsection is the period beginning on November 18, 1997, and ending on the date on which the Secretary of Energy and the Secretary of the Interior jointly certify to Congress that the sum of the moneys deposited in the Treasury under paragraph (1) is equal to the total of the following:

(A) The cost of all environmental restoration, waste management, and environmental compliance activities incurred by the United States with respect to the lands transferred under subsection (a).

(B) The cost to the United States to originally install wells, gathering lines, and related equipment on the transferred lands and any other cost incurred by the United States with respect to the lands.

(g) USE OF RECEIPTS.—(1) The Secretary of the Interior may use, without further appropriation, not more than $1,500,000 of the moneys covered into the Treasury under subsection (f)(1) to cover the cost of any additional analysis, site characterization, and geotechnical studies deemed necessary by the Secretary to support environmental restoration, waste management, or environmental compliance with respect to Oil Shale Reserve Numbered 3. Upon the completion of such studies, the Secretary of the Interior shall submit to Congress a report containing—

(A) the results and conclusions of such studies; and

(B) an estimate of the total cost of the Secretary's preferred alternative to address environmental restoration, waste management, and environmental compliance needs at Oil Shale Reserve Numbered 3.

(2) If the cost estimate required by paragraph (1)(B) does not exceed the total of the moneys covered into the Treasury under subsection (f)(1) and remaining available for obligation as of the date of submission of the report under paragraph (1), the Secretary of the Interior may access such moneys, beginning 60 days after submission of the report and without further appropriation, to cover the costs of implementing the preferred alternative to address environmental restoration, waste management, and environmental compliance needs at Oil Shale Reserve Numbered 3. If the cost estimate exceeds such available moneys, the Secretary of the Interior may only access such moneys as authorized by subsequent Act of Congress.

(Added Pub. L. 105–85, div. C, title XXXIV, § 3404(a), Nov. 18, 1997, 111 Stat. 2059; amended Pub. L. 107–107, div. A, title X, § 1048(c)(14), Dec. 28, 2001, 115 Stat. 1226; Pub. L. 107–345, § 1, Dec. 17, 2002, 116 Stat. 2894.)

REFERENCES IN TEXT

The Mineral Leasing Act, referred to in subsec. (b)(1), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (c), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (e), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Federal Oil and Gas Royalty Management Act of 1982, referred to in subsec. (f)(1), is Pub. L. 97–451, Jan. 12, 1983, 96 Stat. 2447, which is classified generally to chapter 29 (§ 1701 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 30 and Tables.

AMENDMENTS

2002—Subsec. (f)(1). Pub. L. 107–345, § 1(1), struck out after first sentence: ''Subject to a specific authorization and appropriation for this purpose, such moneys may be used for reimbursement of environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the lands transferred under subsection (a).''

Subsec. (g). Pub. L. 107–345, § 1(2), added subsec. (g).

2001—Subsec. (a)(2). Pub. L. 107–107, § 1048(c)(14)(A), substituted ''November 18, 1998'' for ''one year after the date of the enactment of this section''.

Subsec. (b)(1). Pub. L. 107–107, § 1048(c)(14)(B), substituted ''November 18, 1997,'' for ''the date of the enactment of this section,''.

Subsec. (b)(2). Pub. L. 107–107, § 1048(c)(14)(C), substituted ''November 18, 1998'' for ''the end of the one-year period beginning on the date of the enactment of this section''.

Subsec. (f)(2). Pub. L. 107–107, § 1048(c)(14)(D), substituted ''November 18, 1997,'' for ''the date of the enactment of this section''.

## CHAPTER 643—CIVILIAN EMPLOYEES

Sec.
[7471. Repealed.]
7472. Physical examination: employees engaged in hazardous occupations.
7473. Employment of aliens.
[7474, 7475. Repealed.]
7476. Administration of oaths by clerks and employees.
7477. Transportation of dependents and household effects of civilian personnel stationed outside the United States: payment in lieu of transportation.
7478. Naval War College and Marine Corps University: civilian faculty members.
7479. Civil service mariners of Military Sealift Command: release of drug test results to Coast Guard.
7480. Special agents of the Naval Criminal Investigative Service: authority to execute warrants and make arrests.

AMENDMENTS

2000—Pub. L. 106–398, § 1 [[div. A], title V, § 554(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–127, added item 7480.

1998—Pub. L. 105–261, div. A, title XI, § 1103(b), Oct. 17, 1998, 112 Stat. 2141, added item 7479.

1997—Pub. L. 105–85, div. A, title XI, § 1109(b)(2), Nov. 18, 1997, 111 Stat. 1927, substituted ''Marine Corps University'' for ''Marine Corps Command and Staff College'' in item 7478.

1989—Pub. L. 101–189, div. A, title XI, § 1124(c)(2), Nov. 29, 1989, 103 Stat. 1559, substituted ''Naval War College and Marine Corps Command and Staff College: civilian faculty members'' for ''Naval War College: employment of civilian professors; compensation'' in item 7478.

1966—Pub. L. 89–718, § 43, Nov. 2, 1966, 80 Stat. 1120, struck out item 7474 ''Wage rates: establishment''.

1959—Pub. L. 86–148, § 1(2), Aug. 7, 1959, 73 Stat. 302, struck out item 7475 ''Force at naval activities not to be increased before elections''.

1958—Pub. L. 85–861, § 1(151), Sept. 2, 1958, 72 Stat. 1513, struck out item 7471 ''Appointments: professional and scientific services''.

### [§ 7471. Repealed. Pub. L. 85–861, § 36B(23), Sept. 2, 1958, 72 Stat. 1571]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 462, related to appointments in professional and scientific service.

### § 7472. Physical examination: employees engaged in hazardous occupations

(a) The Secretary of the Navy may provide for physical examination by civilians of employees engaged in hazardous occupations, where the professional services of the Medical Department

are not available. The Secretary may compensate these civilians for their services, on a contract or fee basis, at the rates customary in the locality.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 462.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7472 ..... | 5 U.S.C. 415c. | Aug. 2, 1946, ch. 756, § 2, 60 Stat. 853. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, § 39, 60 Stat. 858. |

In subsection (b) the words ''except the authority to prescribe regulations'' are omitted, since 5 U.S.C. 415c contains no authority for the Secretary of the Navy to prescribe regulations for the administration of that section.

### § 7473. Employment of aliens

Laws prohibiting payment of compensation to a person who is not a citizen of the United States do not apply to a person whose employment by the Department of the Navy is determined by the Secretary of the Navy to be necessary to obtain for the armed forces the benefits of the special technical or scientific knowledge or experience possessed by that person and not readily obtainable from a citizen.

(Aug. 10, 1956, ch. 1041, 70A Stat. 462.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7473 ..... | 5 U.S.C. 415b. | Feb. 26, 1946, ch. 36, 60 Stat. 31. |

The word ''Laws'' is substituted for the words ''Statutory provisions'' for clarity. The words ''armed forces'' are substituted for the words ''military services of the United States'' for uniformity. The words ''of the United States'' at the end of the section are omitted as surplusage.

### [§ 7474. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 663]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 463, related to establishment of wage rates for employees by Secretary of Navy.

### [§ 7475. Repealed. Pub. L. 86–148, § 1(1), Aug. 7, 1959, 73 Stat. 302]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 463, restricted increasing of forces at naval activities prior to national elections.

### § 7476. Administration of oaths by clerks and employees

(a) Chief clerks and inspectors attached to any office of inspector of naval material, chief clerks attached to the field service of the Department of the Navy, to naval shipyards and stations, and to Marine Corps posts and stations, and such other clerks and employees attached to those activities as the Secretary of the Navy designates, may administer—

(1) oaths required by law or regulation relating to claims against, or applications to, the United States of officers and of employees of the Department; and

(2) oaths of office to officers and employees of the Department.

(b) There may be no compensation for the administration of oaths under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 463.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7476 ..... | 34 U.S.C. 217b. | Apr. 25, 1935, ch. 83, 49 Stat. 162. |

### § 7477. Transportation of dependents and household effects of civilian personnel stationed outside the United States: payment in lieu of transportation

(a) When civilian employees of the Department of the Navy are located at duty stations outside the United States, the dependents and household effects of such personnel may be transported—

(1) from the locations outside the United States to locations designated by such personnel or their dependents; and

(2) from those designated locations to the duty stations to which the personnel are ordered.

The Secretary of the Navy may determine the civilian employees whose dependents and household effects may be transported under this section.

(b) Authority to transport household effects under this section includes authority to pack and unpack those effects.

(c) Transportation of dependents and household effects is authorized under this section either before or after orders are issued relieving the civilian concerned from the duty station outside the United States. The transportation may be by Government or commercial facilities.

(d) In place of the transportation in kind authorized for dependents, the Secretary may authorize the payment, after the travel has been completed, of an amount equal to the commercial transportation costs, including taxes if paid, of all parts of the travel for which transportation in kind was not furnished.

(e) Current appropriations available for travel and transportation may be used for expenditures under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 463.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7477 ..... | 37 U.S.C. 112c. | Feb. 18, 1946, ch. 30 (3d par.), 60 Stat. 20; Oct. 12, 1949, ch. 681, § 524, 63 Stat. 836. |

In subsection (a) the words ''without regard to rank or grade'' and ''or subsequent to the discharge or release of such personnel from active service'' are omitted as applicable only to members of the naval service. The Act of February 18, 1946, 60 Stat. 20, applied to both civilian and naval personnel and was amended by the

Act of October 12, 1949, ch. 681, § 524, by deleting therefrom all reference to naval personnel. The words ''the continental limits of'' and ''or in Alaska'' are omitted as covered by the term ''outside the United States''.

### § 7478. Naval War College and Marine Corps University: civilian faculty members

(a) AUTHORITY OF SECRETARY.—The Secretary of the Navy may employ as many civilians as professors, instructors, and lecturers at a school of the Naval War College or of the Marine Corps University as the Secretary considers necessary.

(b) COMPENSATION OF FACULTY MEMBERS.—The compensation of persons employed under this section shall be as prescribed by the Secretary.

(c) APPLICATION TO CERTAIN FACULTY MEMBERS.—This section shall not apply with respect to professors, instructors, and lecturers employed at a school of the Naval War College or of the Marine Corps University if the duration of the principal course of instruction offered at the school or college involved is less than 10 months.

(Aug. 10, 1956, ch. 1041, 70A Stat. 464; Pub. L. 101–189, div. A, title XI, § 1124(c)(1), Nov. 29, 1989, 103 Stat. 1559; Pub. L. 105–85, div. A, title XI, § 1109(a), (b)(1), Nov. 18, 1997, 111 Stat. 1927.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7478 ..... | 34 U.S.C. 1071 (less applicability to Naval Academy). | Aug. 2, 1946, ch. 756, § 7(a) (less applicability to Naval Academy), 60 Stat. 854. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, § 39, 60 Stat. 858. |

In subsection (a) the words ''for the proper instruction of naval personnel'' and in subsection (b) the words ''out of naval appropriations'' are omitted as surplusage.

In subsection (c) the words ''except the authority to prescribe regulations'' are omitted, since 34 U.S.C. 1071 contains no authority for the Secretary to prescribe regulations.

AMENDMENTS

1997—Pub. L. 105–85, § 1109(b)(1), substituted ''Marine Corps University'' for ''Marine Corps Command and Staff College'' in section catchline.

Subsecs. (a), (c). Pub. L. 105–85, § 1109(a), substituted ''of the Marine Corps University'' for ''at the Marine Corps Command and Staff College''.

1989—Pub. L. 101–189 substituted ''Naval War College and Marine Corps Command and Staff College: civilian faculty members'' for ''Naval War College: employment of civilian professors; compensation'' as section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) The Secretary of the Navy may employ as many civilians as professors, instructors, and lecturers at the Naval War College as he considers necessary.

''(b) The compensation of persons employed under this section is as prescribed by the Secretary.

''(c) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section to any person in the Department of the Navy, with or without the authority to make successive redelegations.''

### § 7479. Civil service mariners of Military Sealift Command: release of drug test results to Coast Guard

(a) RELEASE OF DRUG TEST RESULTS TO COAST GUARD.—The Secretary of the Navy may release to the Commandant of the Coast Guard the results of a drug test of any employee of the Department of the Navy who is employed in any capacity on board a vessel of the Military Sealift Command. Any such release shall be in accordance with the standards and procedures applicable to the disclosure and reporting to the Coast Guard of drug tests results and drug test records of individuals employed on vessels documented under the laws of the United States.

(b) WAIVER.—The results of a drug test of an employee may be released under subsection (a) without the prior written consent of the employee that is otherwise required under section 503(e) of the Supplemental Appropriations Act, 1987 (5 U.S.C. 7301 note).

(Added Pub. L. 105–261, div. A, title XI, § 1103(a), Oct. 17, 1998, 112 Stat. 2141.)

REFERENCES IN TEXT

Section 503(e) of the Supplemental Appropriations Act, 1987, referred to in subsec. (b), is section 503(e) of Pub. L. 100–71 which is set out as a note under section 7301 of Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### § 7480. Special agents of the Naval Criminal Investigative Service: authority to execute warrants and make arrests

(a) AUTHORITY.—The Secretary of the Navy may authorize any Department of the Navy civilian employee described in subsection (b) to have the same authority to execute and serve warrants and other processes issued under the authority of the United States and to make arrests without a warrant as may be authorized under section 1585a of this title for special agents of the Defense Criminal Investigative Service.

(b) AGENTS TO HAVE AUTHORITY.—Subsection (a) applies to any employee of the Department of the Navy who is a special agent of the Naval Criminal Investigative Service (or any successor to that service) whose duties include conducting, supervising, or coordinating investigations of criminal activity in programs and operations of the Department of the Navy.

(c) GUIDELINES FOR EXERCISE OF AUTHORITY.—The authority provided under subsection (a) shall be exercised in accordance with guidelines prescribed by the Secretary of the Navy and approved by the Secretary of Defense and the Attorney General and any other applicable guidelines prescribed by the Secretary of the Navy, the Secretary of Defense, or the Attorney General.

(Added Pub. L. 106–398, § 1 [[div. A], title V, § 554(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–126.)

## CHAPTER 645—PROCUREMENT OF SUPPLIES AND SERVICES

Sec.
[7521. Repealed.]
7522. Contracts for research.
7523. Tolls and fares: payment or reimbursement.
7524. Marine mammals: use for national defense purposes.

AMENDMENTS

1994—Pub. L. 103–355, title II, § 2001(j)(3)(C), Oct. 13, 1994, 108 Stat. 3303, struck out item 7521 ''Progress payment for work done; lien based on payment''.

1986—Pub. L. 99–661, div. A, title XIII, § 1354(b), Nov. 14, 1986, 100 Stat. 3996, added item 7524.

### [§ 7521. Repealed. Pub. L. 103–355, title II, § 2001(j)(1), Oct. 13, 1994, 108 Stat. 3303]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 464, authorized Secretary of the Navy to make partial payments during progress of work done under contract, and directed that paramount lien on thing contracted for accrues to United States on account of payments so made. See section 2307(g) of this title.

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 10001 of Pub. L. 103–355, set out as an Effective Date of 1994 Amendment note under section 251 of Title 41, Public Contracts.

### § 7522. Contracts for research

(a) The Secretary of the Navy and, by direction of the Secretary, the Chief of Naval Research and the chiefs of bureaus may, without advertising, make contracts or amendments or modifications of contracts for services and materials necessary to conduct research and to make or secure reports, tests, models, or apparatus. A contractor supplying such services or materials need not be required to furnish a bond.

(b) This section does not authorize the use of the cost-plus-a-percentage-of-cost system of contracting.

(Aug. 10, 1956, ch. 1041, 70A Stat. 464; Pub. L. 96–513, title V, § 513(38), Dec. 12, 1980, 94 Stat. 2934; Pub. L. 97–258, § 3(b)(9), Sept. 13, 1982, 96 Stat. 1064; Pub. L. 98–525, title XIV, § 1405(56)(B), Oct. 19, 1984, 98 Stat. 2626; Pub. L. 103–355, title II, § 2001(j)(2), Oct. 13, 1994, 108 Stat. 3303.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7522 ..... | 5 U.S.C. 475e. | Aug. 1, 1946, ch. 727, § 6, 60 Stat. 780. |

In subsection (a) reference to R.S. 3718, 3719, 3720, and 3722 (34 U.S.C. 561, 562, 563, and 572) is omitted because these sections were expressly repealed by § 11(a) of the Act of February 19, 1948, ch. 65, 62 Stat. 25. The words ''without advertising'' are substituted for the reference to R.S. 3709 (41 U.S.C. 5) for brevity and clarity. The sentence ''A contractor supplying such services or materials need not be required to furnish a bond'' is substituted for the words ''without performance or other bonds'' for clarity, since the provision is interpreted as a discretionary authority in the Secretary to waive bond.

In subsection (c) the words ''This section does not authorize'' are substituted for the words ''nothing in this section shall be construed to authorize''.

AMENDMENTS

1994—Subsecs. (b), (c). Pub. L. 103–355 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''Subsections (a) and (b) of section 3324 of title 31 do not apply to advance, progress, or other payments made with respect to a contract under this section.''

1984—Subsec. (b). Pub. L. 98–525 substituted ''Subsections (a) and (b) of section 3324 of title 31 do'' for ''Section 3324(a) and (b) of title 31 does''.

1982—Subsec. (b). Pub. L. 97–258 substituted ''section 3324(a) and (b) of title 31'' for ''section 3648 of the Revised Statutes (31 U.S.C. 529)''.

1980—Subsec. (b). Pub. L. 96–513 substituted ''Section 3648 of the Revised Statutes (31 U.S.C. 529)'' for ''Section 529 of title 31''.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103–355, see section 10001 of Pub. L. 103–355, set out as a note under section 251 of Title 41, Public Contracts.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

### § 7523. Tolls and fares: payment or reimbursement

Naval appropriations chargeable for transportation or travel are available for the payment or reimbursement of ferry, bridge, and similar tolls and of streetcar, bus, and similar fares.

(Aug. 10, 1956, ch. 1041, 70A Stat. 464.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7523 ..... | 34 U.S.C. 899a. | Aug. 2, 1946, ch. 756, § 23, 60 Stat. 856. |

### § 7524. Marine mammals: use for national defense purposes

(a) AUTHORITY.—Subject to subsection (c), the Secretary of Defense may authorize the taking of not more than 25 marine mammals each year for national defense purposes. Any such authorization may be made only with the concurrence of the Secretary of Commerce and after consultation with the Marine Mammal Commission established by section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401).

(b) HUMANE TREATMENT REQUIRED.—A mammal taken under this section shall be captured, supervised, cared for, transported, and deployed in a humane manner consistent with conditions established by the Secretary of Commerce.

(c) PROTECTION FOR ENDANGERED SPECIES.—A mammal may not be taken under this section if the mammal is determined to be a member of an endangered or threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533).

(d) APPLICATION OF OTHER ACT.—This section applies without regard to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

(Added Pub. L. 99–661, div. A, title XIII, § 1354(a), Nov. 14, 1986, 100 Stat. 3996.)

REFERENCES IN TEXT

The Marine Mammal Protection Act of 1972, referred to in subsec. (d), is Pub. L. 92–522, Oct. 21, 1972, 86 Stat.

1027, as amended, which is classified generally to chapter 31 (§ 1361 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of Title 16 and Tables.

## CHAPTER 647—DISPOSAL OF OBSOLETE OR SURPLUS MATERIAL

Sec.
7541. Obsolete and other material: gift or sale to Boy Scouts of America, Naval Sea Cadet Corps and Young Marines of the Marine Corps League.
7541a. Uniform clothing: sale to Naval Sea Cadet Corps.
7542. Excess clothing: sale for distribution to needy.
7543. Useless ordnance material: disposition of proceeds on sale.
7544. Devices and trophies: transfer to other agencies.
7545. Obsolete material and articles of historical interest: loan or gift.
7546. Loan or gift of articles to ships' sponsors and donors.
7547. Equipment for instruction in seamanship: loan to military schools.

AMENDMENTS

1975—Pub. L. 93–628, § 1(b), Jan. 3, 1975, 88 Stat. 2148, inserted ", Naval Sea Cadet Corps and Young Marines of the Marine Corps League" in item 7541.

1965—Pub. L. 89–266, § 1(2), Oct. 19, 1965, 79 Stat. 990, added item 7541a.

### § 7541. Obsolete and other material: gift or sale to Boy Scouts of America, Naval Sea Cadet Corps and Young Marines of the Marine Corps League

Subject to regulations under section 121 of title 40, the Secretary of the Navy may—

(1) give obsolete material not needed for naval purposes; and

(2) sell other material that may be spared at a price representing its fair value;

to the Boy Scouts of America for the sea scouts, to the Naval Sea Cadet Corps for the sea cadets, and to the Young Marines of the Marine Corps League for the young marines. The cost of transportation and delivery of material given or sold under this section shall be charged to the Boy Scouts of America, to the Naval Sea Cadets, or to the Young Marines of the Marine Corps League, as the case may be.

(Aug. 10, 1956, ch. 1041, 70A Stat. 465; Pub. L. 93–628, § 1, Jan. 3, 1975, 88 Stat. 2147; Pub. L. 96–513, title V, § 513(39), Dec. 12, 1980, 94 Stat. 2934; Pub. L. 107–217, § 3(b)(31), Aug. 21, 2002, 116 Stat. 1297.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7541 ..... | 34 U.S.C. 546b. | Mar. 1, 1929, ch. 429, 45 Stat. 1430; Oct. 31, 1951, ch. 654, § 2(21), 65 Stat. 707. |

The word "give" is substituted for the words "dispose of without charge"; the words "naval purposes" are substituted for the words "the Navy"; and the word "sell" is substituted for the words "dispose of * * * at prices". The words "to the Navy" are omitted as surplusage. Since the corporate name of the organization is "Boy Scouts of America", that name is used to designate the transferee in lieu of words "sea scout department", and the words "for the sea scouts" are added.

AMENDMENTS

2002—Pub. L. 107–217 substituted "section 121 of title 40" for "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)" in introductory provisions.

1980—Pub. L. 96–513 substituted "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)" for "section 486 of title 40".

1975—Pub. L. 93–628 inserted "Naval Sea Cadet Corps and Young Marines of the Marine Corps League" in section catchline, and authorized the Secretary of the Navy to gift obsolete materials and to sell surplus materials to the Naval Sea Cadet Corps and the Young Marines of the Marine Corps League with the requirement that the cost of transportation and delivery of such materials be charged to the recipient.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 2 of Pub. L. 93–628 provided that: "The amendments made by the first section [amending this section] shall take effect on the date of the enactment of this Act [Jan. 3, 1975]."

### § 7541a. Uniform clothing: sale to Naval Sea Cadet Corps

Subject to regulations under section 121 of title 40, the Secretary of the Navy, under regulations prescribed by him, may sell any item of enlisted naval uniform clothing that may be spared, at a price representing its fair value, to the Naval Sea Cadet Corps for the sea cadets and to any Federal or State maritime academy having a department of naval science for the maritime cadets and midshipmen. The cost of transportation and delivery of items sold under this section shall be charged to the Naval Sea Cadet Corps and to such Federal and State maritime academies.

(Added Pub. L. 89–266, § 1(1), Oct. 19, 1965, 79 Stat. 990; amended Pub. L. 96–513, title V, § 513(39), Dec. 12, 1980, 94 Stat. 2934; Pub. L. 107–217, § 3(b)(32), Aug. 21, 2002, 116 Stat. 1297.)

AMENDMENTS

2002—Pub. L. 107–217 substituted "section 121 of title 40" for "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

1980—Pub. L. 96–513 substituted "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)" for "section 486 of title 40".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

### § 7542. Excess clothing: sale for distribution to needy

(a) Subject to regulations under section 121 of title 40, the Secretary of the Navy, under regulations prescribed by him, may sell, at nominal prices, to recognized charitable organizations, to States and subdivisions thereof, and to municipalities nonregulation and excess clothing that may be available for distribution to the

needy. The clothing may be sold only if the purchaser agrees not to resell it but to give it to the needy.

(b) A fair proportionate allotment of clothing to be sold under this section shall be set aside for distribution in each State and the District of Columbia. An allotment so set aside may not be sold for other distribution until at least 30 days after the allotment was made.

(Aug. 10, 1956, ch. 1041, 70A Stat. 465; Pub. L. 96–513, title V, § 513(39), Dec. 12, 1980, 94 Stat. 2934; Pub. L. 107–217, § 3(b)(33), Aug. 21, 2002, 116 Stat. 1297.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7542 ..... | 34 U.S.C. 546d. | Dec. 23, 1932, ch. 8, 47 Stat. 751; Oct. 31, 1951, ch. 654, § 2(22), 65 Stat. 707. |

In subsection (a) the words ''absolutely free'' are omitted as surplusage.

In subsection (b) the words ''for other distribution'' are substituted for the words ''distribution within any other State''. The words ''at least'' are added for clarity.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–217 substituted ''section 121 of title 40'' for ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)''.

1980—Subsec. (a). Pub. L. 96–513 substituted ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)'' for ''section 486 of title 40''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

## § 7543. Useless ordnance material: disposition of proceeds on sale

The net proceeds of sales of useless ordnance material by the Department of the Navy shall be covered into the Treasury.

(Aug. 10, 1956, ch. 1041, 70A Stat. 465.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7543 ..... | 50 U.S.C. 74. | Jan. 22, 1923, ch. 28, 42 Stat. 1142 (last 24 words of 5th par.). |

The words ''as miscellaneous receipts'' are omitted as surplusage.

## § 7544. Devices and trophies: transfer to other agencies

(a) The Secretary of the Navy may, without reimbursement, transfer to the Secretary of the Treasury devices and trophies for the promotion of the sale of war bonds or victory bonds. The Secretary of the Treasury may sell or donate the devices and trophies for the promotion of the sale of such bonds.

(b) The Secretary of the Navy may, without reimbursement, transfer to any agency of the United States devices and trophies for scientific, experimental, monumental, or display purposes.

(Aug. 10, 1956, ch. 1041, 70A Stat. 465.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7544 ..... | 34 U.S.C. 546i. | Aug. 7, 1946, ch. 804, § 4, 60 Stat. 898. |

The words ''such * * * as he may in his discretion determine'' are omitted as surplusage.

## § 7545. Obsolete material and articles of historical interest: loan or gift

(a) AUTHORITY TO MAKE LOANS AND GIFTS.—The Secretary of the Navy may lend or give, without expense to the United States, items described in subsection (b) that are not needed by the Department of the Navy to any of the following:

(1) A State, Commonwealth, or possession of the United States, or political subdivision or municipal corporation thereof.

(2) The District of Columbia.

(3) A library.

(4) A historical society.

(5) An educational institution whose graduates or students fought in a foreign war.

(6) A servicemen's monument association.

(7) A State museum.

(8) A museum or memorial operated and maintained for educational purposes only, whose charter denies it the right to operate for profit.

(9) A post of the Veterans of Foreign Wars of the United States.

(10) A post of the American Legion.

(11) Any other recognized war veterans' association.

(12) A post of the Sons of Veterans Reserve.

(b) ITEMS ELIGIBLE FOR DISPOSAL.—This section applies to the following types of property held by the Department of the Navy:

(1) Captured, condemned, or obsolete ordnance material.

(2) Captured, condemned, or obsolete combat or shipboard material.

(c) REGULATIONS.—A loan or gift made under this section shall be subject to regulations prescribed by the Secretary and to regulations under section 121 of title 40.

(d) MAINTENANCE OF THE RECORDS OF THE GOVERNMENT.—Records of the Government as defined in section 3301 of title 44 may not be disposed of under this section.

(e) ALTERNATIVE AUTHORITIES TO MAKE GIFTS OR LOANS.—If any disposition is authorized by this section and section 2572 of this title, the Secretary may make the gift or loan under either section.

(f) AUTHORITY TO TRANSFER A PORTION OF A VESSEL.—The Secretary may lend, give, or otherwise transfer any portion of the hull or superstructure of a vessel stricken from the Naval Vessel Register and designated for scrapping to a qualified organization specified in subsection (a). The terms and conditions of an agreement for the transfer of a portion of a vessel under this section shall include a requirement that the transferee will maintain the material conveyed in a condition that will not diminish the histor-

ical value of the material or bring discredit upon the Navy.

(Aug. 10, 1956, ch. 1041, 70A Stat. 466; Pub. L. 96–513, title V, § 513(39), (40), Dec. 12, 1980, 94 Stat. 2934, 2935; Pub. L. 104–106, div. A, title X, § 1061(i), Feb. 10, 1996, 110 Stat. 443; Pub. L. 107–107, div. A, title X, § 1043(a)–(c), Dec. 28, 2001, 115 Stat. 1218, 1219; Pub. L. 107–217, § 3(b)(34), Aug. 21, 2002, 116 Stat. 1298; Pub. L. 107–314, div. A, title X, § 1062(e)(2), Dec. 2, 2002, 116 Stat. 2651; Pub. L. 109–163, div. A, title X, § 1057(a)(3), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7545 ..... | 34 U.S.C. 546g. | Aug. 7, 1946, ch. 804, § 2, 60 Stat. 897; Oct. 31, 1951, ch. 654, § 2(23), 65 Stat. 707. |
| | 34 U.S.C. 546h (last sentence as applicable to 34 U.S.C. 546g). | Aug. 7, 1946, ch. 804, § 3 (last sentence as applicable to § 2), 60 Stat. 897. |
| | 34 U.S.C. 546k (1st sentence as applicable to 34 U.S.C. 546g, and 3d sentence). | Aug. 7, 1946, ch. 804, § 6 (1st sentence as applicable to § 2, and 3d sentence), 60 Stat. 898. |

In subsection (a) the words, ''ordnance material'' are substituted for the words ''ordnance, guns, projectiles''. Posts of the Grand Army of the Republic are omitted from the list of authorized donees because there are no surviving members of that organization. The word ''Commonwealth'' is inserted to reflect the present status of Puerto Rico. Specific reference to the Canal Zone is omitted as unnecessary, since the Zone is a ''possession of the United States'' as defined in section 101 of this title and is therefore covered by clause (1).

Subsection (d) is added to note the existence of a later act, codified in § 2572 of this title, which provides similar disposal authority, and to give effect to § 2 of the Act of February 27, 1948, ch. 76, 62 Stat. 37, which is not now contained in the U.S. Code, and which saves this section despite the apparent implied repeal.

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109–163 struck out ''Territory,'' after ''A State,''.

2002—Subsec. (c). Pub. L. 107–217, as amended by Pub. L. 107–314, substituted ''section 121 of title 40'' for ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)''.

2001—Subsec. (a). Pub. L. 107–107, § 1043(a)(1), inserted heading and substituted introductory provisions for provisions which read as follows: ''Subject to regulations under section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486), the Secretary of the Navy, under regulations prescribed by him, may lend or give, without expense to the United States, captured, condemned, or obsolete ordnance material, books, manuscripts, works of art, drawings, plans, and models, other condemned or obsolete material, trophies, and flags, and other material of historic interest not needed by the Department of the Navy, to—''.

Subsec. (a)(1) to (12). Pub. L. 107–107, § 1043(a)(2), capitalized the first letter after the paragraph designation in each of pars. (1) to (12), substituted a period for a semicolon at end of pars. (1) to (10) and a period for ''; or'' at end of par. (11), substituted ''a foreign war'' for ''World War I or World War II'' in par. (5) and ''servicemen's monument'' for ''soldiers' monument'' in par. (6), and inserted ''or memorial'' after ''museum'' in par. (8).

Subsecs. (b), (c). Pub. L. 107–107, § 1043(b)(2), added subsecs. (b) and (c). Former subsecs. (b) and (c) redesignated (d) and (e), respectively.

Subsec. (d). Pub. L. 107–107, § 1043(b)(1), (c)(1), redesignated subsec. (b) as (d) and inserted heading.

Subsec. (e). Pub. L. 107–107, § 1043(b)(1), (c)(2), redesignated subsec. (c) as (e) and inserted heading.

Subsec. (f). Pub. L. 107–107, § 1043(b)(3), added subsec. (f).

1996—Subsecs. (c), (d). Pub. L. 104–106 redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: ''No loan or gift under this section may be made unless—

''(1) notice of the proposal to make the loan or gift is sent to Congress;

''(2) 30 calendar days of continuous session of Congress have expired after the notice was sent to Congress; and

''(3) during that 30-day period Congress does not pass a concurrent resolution stating in substance that it does not favor the proposed loan or gift.''

1980—Subsec. (a). Pub. L. 96–513, § 513(39), substituted ''section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486),'' for ''section 486 of title 40''.

Subsec. (b). Pub. L. 96–513, § 513(40), substituted ''section 3301'' for ''section 366''.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title X, § 1062(e), Dec. 2, 2002, 116 Stat. 2651, provided that the amendment made by section 1062(e)(2) is effective as if included in Pub. L. 107–217 as originally enacted.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

## § 7546. Loan or gift of articles to ships' sponsors and donors

The Secretary of the Navy, under regulations prescribed by him and without expense to the United States, may lend or give—

(1) to the sponsor of a vessel the name plate or any small article of negligible or sentimental value from that vessel; and

(2) to any State, group, or organization named in section 7545 of this title any article, material, or equipment, including silver service, given by it.

(Aug. 10, 1956, ch. 1041, 70A Stat. 466.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7546 ..... | 34 U.S.C. 546h (less applicability to 34 U.S.C. 546g). | Aug. 7, 1946, ch. 804, § 3 (less applicability to § 2), 60 Stat. 898. |

The words ''the sponsor'' are substituted for the words ''any individual who sponsored'' for brevity. The word ''ship'' and the word ''person'' are omitted as surplusage. The words ''the loans or gifts described in this section shall be made'' are omitted as unnecessary, and the words ''under regulations prescribed by him'' are substituted for the words ''subject to such rules and regulations as may be prescribed by the Secretary of the Navy'' for brevity.

## § 7547. Equipment for instruction in seamanship: loan to military schools

(a) Upon the application of the governor of any State having a seacoast or bordering on any of the Great Lakes, the President may direct the Secretary of the Navy to lend to one well-established military school in that State that desires to instruct its cadets in elementary seamanship one fully equipped cutter for every 25 cadets attending the school, and such other

equipment adequate for instruction in elementary seamanship as may be spared.

(b) To be eligible for a loan under this section a school must—

(1) have adequate facilities for cutter drill;

(2) have at least 75 cadets—

(A) at least 15 years of age;

(B) in uniform;

(C) receiving military instruction; and

(D) quartered in barracks under military regulations; and

(3) have the capacity to quarter and educate 150 cadets at one time.

(c) Whenever a loan is made under this section, the Secretary shall require a bond in double the value of the property for its care and return when required.

(Aug. 10, 1956, ch. 1041, 70A Stat. 466.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7547 ..... | 34 U.S.C. 1128. | Mar. 3, 1901, ch. 863, 31 Stat. 1440; June 29, 1906, ch. 3612, 34 Stat. 620; June 24, 1910, ch. 378, 36 Stat. 613 (1st par.). |

In subsection (a) the word ''lend'' is substituted for the word ''furnish'' because of the provision for return of the equipment. The words ''man-of-war's'' are omitted as obsolete. The words ''attending the school'' are substituted for the words ''in actual attendance''.

In subsection (b) the words ''To be eligible for a loan under this section'' are added, and the subsection is phrased as a condition.

## CHAPTER 649—QUARTERS, UTILITIES, AND SERVICES

Sec.
7571. Quarters or other accommodations: to whom furnished.
7572. Quarters: accommodations in place of for members on sea duty.
7573. Quarters: temporary; transient members.
[7574, 7575. Repealed.]
7576. Quarters: extension telephones.
7577. Quarters: Nurse Corps officers; assignment in hospitals.
[7578. Repealed.]
7579. Officers' messes and quarters: limitations on employment of enlisted members.
7580. Heat and light for Young Men's Christian Association buildings.
7581. Marine Corps post laundries: disposition of receipts.
7582. Naval and Marine Corps Historical Centers: fee for providing historical information to the public.

AMENDMENTS

2000—Pub. L. 106–398, § 1 [[div. A], title X, § 1085(b)(2), (3)(A)], Oct. 30, 2000, 114 Stat. 1654, 1654A–288, 1654A–289, struck out ''**RELATED**'' before ''**SERVICES**'' in chapter heading and added item 7582.

1996—Pub. L. 104–106, div. A, title XV, § 1503(b)(5), Feb. 10, 1996, 110 Stat. 513, substituted ''officers'' for ''Officers'' in item 7577.

1973—Pub. L. 93–166, title V, § 509(d), Nov. 29, 1973, 87 Stat. 678, struck out items 7574 ''Quarters: limitations on size'' and 7575 ''Quarters: exemptions from cost limitations''.

1958—Pub. L. 85–861, § 1(155), Sept. 2, 1958, 72 Stat. 1513, struck out item 7578 ''Tableware and kitchen utensils: limitations on furnishing''.

### § 7571. Quarters or other accommodations: to whom furnished

(a) Under such regulations as the Secretary of the Navy prescribes, public quarters including heat, light, water, and refrigeration may be furnished for personnel in the following categories who are on active duty:

(1) Members of the naval service.

(2) Members of the Coast Guard when it is operating as a service in the Navy.

(3) Members of the National Oceanic and Atmospheric Administration serving with the Navy.

If public quarters are not available for any such member, the Secretary may provide lodging accommodations for him. Lodging accommodations so provided may not be occupied by the member's dependents.

(b) The Secretary may determine in any case whether public quarters are available within the meaning of any provision of law relating to the assignment of or commutation for public quarters.

(c) The Secretary, to the extent he considers proper, may delegate the authority conferred by subsection (a), except the authority to prescribe regulations, to any person in the Department of the Navy, with or without authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 467; Pub. L. 89–718, § 8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title V, § 513(41), Dec. 12, 1980, 94 Stat. 2935.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7571(a) ..... | 34 U.S.C. 911a (less applicability to members on sea duty). | Aug. 2, 1946, ch. 756, § 15 (less applicability to members on sea duty), 60 Stat. 854. |
| | 5 U.S.C. 421g(b). | Aug. 2, 1946, ch. 756, § 40(b), 60 Stat. 858. |
| 7571(b) ..... | 34 U.S.C. 911. | July 1, 1918, ch. 114, 40 Stat. 718 (4th par.). |
| 7571(c) ..... | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, § 39, 60 Stat. 858. |

In subsection (a) the words ''including members of the Nurse Corps'' are omitted as surplusage, and the definition of ''naval personnel'' in 5 U.S.C. 421g, which is applicable to this subsection, is executed.

In subsection (b) the words ''in any case whether public quarters are available'' are substituted for the words ''where and when there are no public quarters''. The words ''for persons in the Navy and Marine Corps, or serving therewith'' are omitted, since these classes of personnel for whom the Secretary makes the determination of availability are the same as those who may be furnished quarters under subsection (a).

AMENDMENTS

1980—Subsec. (a)(3). Pub. L. 96–513 substituted ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Services Administration''.

1966—Subsec. (a)(3). Pub. L. 89–718 substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 89–718, § 8(a), Nov. 2, 1966, 80 Stat. 1117,

cited as a credit to this section, was repealed by Pub. L. 97–295, § 6(b), Oct. 12, 1982, 96 Stat. 1314.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

CHARGES FOR EXCESS ENERGY CONSUMPTION; DEPOSIT OF PROCEEDS; APPLICABILITY; IMPLEMENTATION

Assessment of members for excess energy consumption in military family housing facilities, see section 507 of Pub. L. 95–82, title V, Aug. 1, 1977, 91 Stat. 372, set out as a note under section 4593 of this title.

## § 7572. Quarters: accommodations in place of for members on sea duty

(a) If public quarters are not available, the Secretary of the Navy may provide lodging accommodations for any—

(1) member of the naval service;

(2) member of the Coast Guard when it is operating as a service in the Navy; or

(3) member of the National Oceanic and Atmospheric Administration serving with the Navy;

on sea duty who is deprived of his quarters on board ship because of repairs or because of other conditions that make his quarters uninhabitable. Lodging accommodations so provided may not be occupied by the member's dependents.

[(b) Repealed. Pub. L. 105–261, div. A, title X, § 1069(a)(7), Oct. 17, 1998, 112 Stat. 2136.]

(c) The Secretary, to the extent he considers proper, may delegate the authority conferred by subsection (a) to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(d)(1) After the expiration of the authority provided in subsection (b), an officer of the naval service on sea duty who is deprived of quarters on board ship because of repairs or because of other conditions that make the officer's quarters uninhabitable may be reimbursed for expenses incurred in obtaining quarters if it is impracticable to furnish the officer with accommodations under subsection (a).

(2) The total amount that an officer may be reimbursed under this subsection may not exceed an amount equal to the basic allowance for quarters of an officer of that officer's grade.

(3) This subsection shall not apply to an officer who is entitled to basic allowance for quarters.

(4) The Secretary may prescribe regulations to carry out this subsection.

(Aug. 10, 1956, ch. 1041, 70A Stat. 468; Pub. L. 89–718, § 8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–357, § 3, Sept. 24, 1980, 94 Stat. 1182; Pub. L. 96–513, title V, § 513(41), Dec. 12, 1980, 94 Stat. 2935; Pub. L. 97–60, title II, § 207(b), Oct. 14, 1981, 95 Stat. 1007; Pub. L. 98–94, title IX, § 912(a), Sept. 24, 1983, 97 Stat. 640; Pub. L. 98–525, title VI, §§ 602(d)(3), 603(a), title XIV, § 1405(54), Oct. 19, 1984, 98 Stat. 2536, 2537, 2625; Pub. L. 99–145, title VI, § 606(a), Nov. 8, 1985, 99 Stat. 638; Pub. L. 99–661, div. A, title VI, § 603(a), Nov. 14, 1986, 100 Stat. 3874; Pub. L. 102–190, div. A, title VI, § 607(a), (b), Dec. 5, 1991, 105 Stat. 1375; Pub. L. 105–85, div. A, title VI, § 603(d)(2)(D), Nov. 18, 1997, 111 Stat. 1783; Pub. L. 105–261, div. A, title X, § 1069(a)(7), Oct. 17, 1998, 112 Stat. 2136.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7572(a) ..... | 34 U.S.C. 911a (as applicable to members on sea duty). | Aug. 2, 1946, ch. 756, § 15 (as applicable to members on sea duty), 60 Stat. 854. |
| | 5 U.S.C. 421g(b). | Aug. 2, 1946, ch. 756, § 40(b), 60 Stat. 858. |
| 7572(b) ..... | 34 U.S.C. 915. | June 19, 1942, ch. 419, § 1, 56 Stat. 371. |
| 7572(c) ..... | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, § 39, 60 Stat. 858. |

In subsection (a) the word ''public'' is substituted for the words ''possessed by the United States'' and the subsection is phrased in terms of availability, as it is so interpreted. The itemization of personnel categories for whom quarters may be furnished is inserted to execute the definition of ''naval personnel'', made applicable to this section by 5 U.S.C. 421g. The requirement in that definition that personnel be on active duty is omitted since this subsection applies only to personnel on sea duty.

In subsection (b) the words ''and who is not entitled to basic allowance for quarters'' are inserted to make it clear that the entitlement under this subsection, as interpreted, is not in addition to basic allowance for quarters. The words ''in obtaining quarters'' are inserted for clarity. The words ''basic allowance for quarters of an officer of his grade'' are substituted for the words ''his quarters allowance'' because, under the Career Compensation Act of 1949, members without dependents are not entitled to a quarters allowance when on sea duty, and the limitation must be based upon the allowance of an officer of the same grade who is entitled thereto.

In subsection (c) the words ''except the authority to prescribe regulations'' are omitted, since subsection (a) does not contain such authority.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–261 struck out subsec. (b) which authorized reimbursements to members of a uniformed service on sea duty who are deprived of quarters on board because of repairs or because of other conditions, and provided that such authority expire on Sept. 30, 1992.

1997—Subsec. (b)(1). Pub. L. 105–85, § 603(d)(2)(D)(i), substituted ''the basic allowance for housing payable under section 403 of title 37 to a member of the same pay grade without dependents for the period during which the member is deprived of quarters on board ship.'' for ''the total of—

''(A) the basic allowance for quarters payable to a member of the same pay grade without dependents for the period during which the member is deprived of quarters on board ship; and

''(B) the variable housing allowance that could be paid to a member of the same pay grade under section 403a of title 37 at the location where the member is deprived of quarters on board ship for the period during which the member is deprived of quarters on board ship.''

Subsec. (b)(2). Pub. L. 105–85, § 603(d)(2)(D)(ii), substituted ''basic allowance for housing'' for ''basic allowance for quarters''.

1991—Subsec. (b). Pub. L. 102–190, § 607(a), amended subsec. to read as in effect on Sept. 30, 1991, in par. (3) struck out ''$1,421,000 for fiscal year 1986 and'' after ''may not exceed'' and substituted ''1992'' for ''1991'', and added par. (4).

Subsec. (d). Pub. L. 102–190, § 607(b), added subsec. (d).

1986—Subsec. (b)(3). Pub. L. 99–661 substituted ''$1,421,000 for fiscal year 1986 and $1,657,000 for each of the fiscal years 1987 through 1991'' for ''$9,000,000 for fiscal year 1981, $6,300,000 for fiscal year 1982, $1,700,000 for fiscal year 1983, $1,300,000 for fiscal year 1984, $1,421,000 for fiscal year 1985, and $1,421,000 for fiscal year 1986''.

1985—Subsec. (b)(3). Pub. L. 99–145 added limit of $1,421,000 for fiscal year 1986.

1984—Subsec. (b)(1)(B). Pub. L. 98–525, § 1405(54), substituted ''on board'' for ''onboard''.

Pub. L. 98–525, § 602(d)(3), substituted ''section 403a'' for ''section 403''.

Subsec. (b)(3). Pub. L. 98–525, § 603(a), added limit of $1,421,000 for fiscal year 1985.

1983—Subsec. (b)(3). Pub. L. 98–94 added limits of $1,700,000, and $1,300,000 for fiscal years 1983 and 1984, respectively.

1981—Subsec. (b). Pub. L. 97–60 amended subsec. (b) generally, dividing existing provisions into numbered paragraphs (1), (2), and (3), inserting in par. (1), provisions relating to the variable housing allowance that could be paid to a member of the same pay grade under section 403 of title 37 at the location where the member is deprived of quarters onboard ship for the period during which the member is deprived of quarters on board ship and, in par. (3), inserting provision setting a limit of $6,300,000 on the total amount of reimbursement for fiscal year 1982.

1980—Subsec. (a)(3). Pub. L. 96–513 substituted ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Services Administration''.

Subsec. (b). Pub. L. 96–357 substituted reimbursement provision when conditions make uninhabitable quarters aboard ship for member of uniformed services on sea duty limited to basic allowance for quarters of member of same grade without dependents for prior such provision for officer of naval service on sea duty so deprived of quarters and not entitled to basic allowance for quarters and limited to basic allowance for quarters of an officer of his grade, made the member able to reside with dependents ineligible for reimbursement, and limited reimbursements for fiscal year 1981 to $9,000,000.

1966—Subsec. (a)(3). Pub. L. 89–718 substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 607(c) of Pub. L. 102–190 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to members of the uniformed services who perform sea duty on or after October 1, 1991.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 603(a) of Pub. L. 99–661 provided that the amendment made by that section is effective Oct. 1, 1986.

EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99–190, § 101(b) [title VIII, § 8102], Dec. 19, 1985, 99 Stat. 1185, 1220, provided that: ''The amendments made to section 7572(b)(3) of title 10, United States Code, and to section 3 of Public Law 96–357 (10 U.S.C. 7572 note) by section 606 of the Department of Defense Authorization Act, 1986 [Pub. L. 99–145], shall apply to reimbursement of expenses incurred on or after October 1, 1985, by a member of a uniformed service on sea duty.''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 602(d)(3) of Pub. L. 98–525 effective Jan. 1, 1985, with exceptions, see section 602(f) of Pub. L. 98–525, set out as a note under section 403 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 207(c) of Pub. L. 97–60 provided that: ''The amendments made by this section [amending this section] shall take effect as of October 1, 1981.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

EFFECTIVE AND TERMINATION DATE OF 1980 AMENDMENT

Section 3 of Pub. L. 96–357, as amended by Pub. L. 97–60, title II, § 207(a), Oct. 14, 1981, 95 Stat. 1007; Pub. L. 98–94, title IX, § 912(b), Sept. 24, 1983, 97 Stat. 640; Pub. L. 98–525, title VI, § 603(b), Oct. 19, 1984, 98 Stat. 2537; Pub. L. 99–145, title VI, § 606(b), Nov. 8, 1985, 99 Stat. 639; Pub. L. 99–661, div. A, title VI, § 603(b), Nov. 14, 1986, 100 Stat. 3874, eff. Oct. 1, 1986, provided that the amendment made by that section is effective only for the period beginning Oct. 1, 1980, and ending Sept. 30, 1991.

Pub. L. 99–500, § 101(c) [title IX, § 9107], Oct. 18, 1986, 100 Stat. 1783–82, 1783–119, and Pub. L. 99–591, § 101(c) [title IX, § 9107], Oct. 30, 1986, 100 Stat. 3341–82, 3341–119, provided that authority for reimbursement provided pursuant to section 3 of Public Law 96–357 (see above) is extended through Sept. 30, 1987, at an amount not to exceed $1,657,000.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 89–718, § 8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, § 6(b), Oct. 12, 1982, 96 Stat. 1314.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## § 7573. Quarters: temporary; transient members

Temporary quarters may be furnished on a rental basis to transient members of the naval service with their dependents, for periods not exceeding 60 days, without loss of entitlement to basic allowance for housing under section 403 of title 37.

(Aug. 10, 1956, ch. 1041, 70A Stat. 468; Pub. L. 105–85, div. A, title VI, § 603(d)(2)(E), Nov. 18, 1997, 111 Stat. 1783.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7573 ..... | [None]. | April 4, 1944, ch. 165 (3d proviso on p. 190), 58 Stat. 190. |

The words ''That effective December 13, 1943'' are omitted as executed. The word ''quarters'' is substituted for the word ''housing'' for uniformity. The words ''basic allowance for quarters'' are substituted for the words ''rental allowance or money allowance for quarters'' to conform to the terminology of § 302 of the Career Compensation Act of 1949 (37 U.S.C. 252).

AMENDMENTS

1997—Pub. L. 105–85 substituted ''basic allowance for housing under section 403 of title 37'' for ''basic allowance for quarters''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

**[§§ 7574, 7575. Repealed. Pub. L. 93–166, title V, § 509(d), Nov. 29, 1973, 87 Stat. 678]**

Section 7574, acts Aug. 10, 1956, ch. 1041, 70A Stat. 468; Aug. 30, 1957, Pub. L. 85–241, title IV, § 404(b), 71 Stat. 556; Aug. 10, 1959, Pub. L. 86–149, title IV, § 410(b), 73 Stat. 321; July 27, 1962, Pub. L. 87–554, title V, § 504(b), (d), 76 Stat. 239; Nov. 7, 1963, Pub. L. 88–174, title V, § 503, 77 Stat. 325; Dec. 5, 1969, Pub. L. 91–142, title V, § 510(a), 83 Stat. 312; Oct. 27, 1971, Pub. L. 92–145, title V, § 508(b), (c), 85 Stat. 408, related to quarters: limitations on size. See section 2684 of this title.

Section 7575, act Aug. 10, 1956, ch. 1041, 70A Stat. 469, related to quarters: exemptions from cost limitations.

**§ 7576. Quarters: extension telephones**

(a) Under regulations prescribed by the Secretary of the Navy appropriated funds may be used to pay the cost of installation and use, other than for personal long distance calls, of extension telephones connecting public quarters occupied by personnel in the following categories with the switchboards of their official stations:

(1) Members of the naval service.

(2) Members of the Coast Guard when it is operating as a service in the Navy.

(3) Members of the National Oceanic and Atmospheric Administration serving with the Navy.

(b) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section, except the authority to prescribe regulations, to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 469; Pub. L. 89–718, § 8(a), Nov. 2, 1966, 80 Stat. 1117; Pub. L. 96–513, title V, § 513(41), Dec. 12, 1980, 94 Stat. 2935.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7576 ..... | 34 U.S.C. 915a. | Aug. 2, 1946, ch. 756, § 4, 60 Stat. 853. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, § 39, 60 Stat. 858. |
| | 5 U.S.C. 421g(d). | Aug. 2, 1946, ch. 756, § 40(d), 60 Stat. 858. |

In subsection (a) the words ''appropriated funds'' are substituted for the words ''naval appropriations'', and the definition of ''naval personnel'' in 5 U.S.C. 421g, which is applicable to this section, is executed. In executing this definition the words ''while on active duty'' are omitted as unnecessary, since a member not on active duty would not have an official station within the meaning of this section.

AMENDMENTS

1980—Subsec. (a)(3). Pub. L. 96–513 substituted ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Services Administration''.

1966—Subsec. (a)(3). Pub. L. 89–718 substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 89–718, § 8(a), Nov. 2, 1966, 80 Stat. 1117, cited as a credit to this section, was repealed by Pub. L. 97–295, § 6(b), Oct. 12, 1982, 96 Stat. 1314.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**§ 7577. Quarters: Nurse Corps officers; assignment in hospitals**

Under such regulations as the Secretary of the Navy prescribes, officers in the Nurse Corps may be assigned quarters in naval hospitals.

(Aug. 10, 1956, ch. 1041, 70A Stat. 469.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7577 ..... | 34 U.S.C. 43h(a) (2d proviso, less 1st 21 words). | Apr. 16, 1947, ch. 38, § 208(a) (2d proviso, less 1st 25 words), 61 Stat. 50. |

**[§ 7578. Repealed. Pub. L. 85–861, § 36B(24), Sept. 2, 1958, 72 Stat. 1571]**

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 469, related to limitations on furnishing of tableware and kitchen utensils.

**§ 7579. Officers' messes and quarters: limitations on employment of enlisted members**

(a) Under such regulations as the Secretary of the Navy prescribes, enlisted members of the naval service and enlisted members of the Coast Guard when it is operating as a service in the Navy may be assigned to duty in a service capacity in officers' messes and public quarters where the Secretary finds that this use of the members is desirable for military reasons.

(b) Notwithstanding any other provision of law, retired enlisted members of the naval service and members of the Fleet Reserve and the Fleet Marine Corps Reserve may, when not on active duty, be voluntarily employed in any service capacity in officers' messes and public quarters without additional expense to the United States.

(c) The Secretary, to the extent he considers proper, may delegate the authority conferred by this section, except the authority to prescribe regulations, to any person in the Department of the Navy, with or without the authority to make successive redelegations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 470.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7579 ..... | 34 U.S.C. 915b(b). | Aug. 2, 1946, ch. 756, § 16(b), 60 Stat. 855. |
| | 5 U.S.C. 412a. | Aug. 2, 1946, ch. 756, § 39, 60 Stat. 858. |
| | 5 U.S.C. 421g(b). | Aug. 2, 1946, ch. 756, § 40(b), 60 Stat. 858. |

In subsection (a) the words ''enlisted members of the naval service and enlisted members of the Coast Guard when it is operating as a service in the Navy'' are substituted for the words ''enlisted naval personnel'' to execute the definition of ''naval personnel'' made applicable to this section by 5 U.S.C. 421g. The definition in that section also covers personnel of the Coast and Geodetic Survey, but since that service has no enlisted members reference to it is unnecessary. In executing this definition the words ''while on active duty'' are omitted as unnecessary, since members not on active duty would not be subject to assignment by the Secretary of the Navy.

In subsection (b) the word ''transferred'' before the words ''member of the Fleet Reserve'' is omitted as unnecessary, since the categories of such members other than ''transferred'' have not been administratively used, and authority for them is omitted in this title. The words ''and the Fleet Marine Corps Reserve'' are added, as the words ''Fleet Reserve'' are used in a generic sense to cover such members. The words ''when not on active duty'' are added. When the personnel concerned are on active duty, they are treated in the same manner as others on active duty.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### § 7580. Heat and light for Young Men's Christian Association buildings

The Secretary of the Navy may furnish, without charge, heat and light to any building of the Young Men's Christian Association located at a naval activity.

(Aug. 10, 1956, ch. 1041, 70A Stat. 470.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7580 ..... | 34 U.S.C. 527. | Mar. 4, 1911, ch. 239, 36 Stat. 1274 (2d proviso). |

The words ''naval activity'' are substituted for the words ''navy yards and stations'' to use present terminology and provide the same coverage.

### § 7581. Marine Corps post laundries: disposition of receipts

(a) Money received for laundry work performed by Marine Corps post laundries shall be used to pay the cost of maintenance and operation of those laundries. Any amount remaining at the end of the fiscal year after the cost has been so paid shall be deposited in the Treasury to the credit of the appropriation from which the cost of operating the laundries is paid.

(b) The receipts and expenditures of Marine Corps post laundries shall be accounted for as public funds.

(Aug. 10, 1956, ch. 1041, 70A Stat. 470.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7581 ..... | 34 U.S.C. 724. | July 11, 1919, ch. 9, 41 Stat. 155 (proviso). |

In subsection (a) the words ''Marine Corps'' are inserted before the words ''post laundries'' for clarity. The words ''maintenance and'' are added to the first sentence and the words ''maintenance and operation'' are omitted from the second sentence.

### § 7582. Naval and Marine Corps Historical Centers: fee for providing historical information to the public

(a) AUTHORITY.—Except as provided in subsection (b), the Secretary of the Navy may charge a person a fee for providing the person with information from the United States Naval Historical Center or the Marine Corps Historical Center that is requested by that person.

(b) EXCEPTIONS.—A fee may not be charged under this section—

(1) to a person for information that the person requests to carry out a duty as a member of the armed forces or an officer or employee of the United States; or

(2) for a release of information under section 552 of title 5.

(c) LIMITATION ON AMOUNT.—A fee charged for providing information under this section may not exceed the cost of providing the information.

(d) RETENTION OF FEES.—Amounts received under subsection (a) for providing information from the United States Naval Historical Center or the Marine Corps Historical Center in any fiscal year shall be credited to the appropriation or appropriations charged the costs of providing information to the public from that historical center during that fiscal year.

(e) DEFINITIONS.—In this section:

(1) The term ''United States Naval Historical Center'' means the archive for historical records and materials of the Navy that the Secretary of the Navy designates as the primary archive for such records and materials.

(2) The term ''Marine Corps Historical Center'' means the archive for historical records and materials of the Marine Corps that the Secretary of the Navy designates as the primary archive for such records and materials.

(3) The terms ''officer of the United States'' and ''employee of the United States'' have the meanings given the terms ''officer'' and ''employee'', respectively, in sections 2104 and 2105, respectively, of title 5.

(Added Pub. L. 106–398, § 1 [[div. A], title X, § 1085(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–288.)

## CHAPTER 651—SHIPS' STORES AND COMMISSARY STORES

Sec.
7601. Sales: members of the naval service and Coast Guard; widows and widowers; civilian employees and other persons.
7602. Sales: members of Army and Air Force; prices.

Sec.
7603. Sales: veterans under treatment.
7604. Ships' stores: sale of goods and services.
7605. Acceptance of Government checks outside the United States.
7606. Subsistence and other supplies: members of armed forces; veterans; executive or military departments and employees; prices.

AMENDMENTS

1996—Pub. L. 104–106, div. A, title III, § 375(a)(2), Feb. 10, 1996, 110 Stat. 283, added item 7606.

1990—Pub. L. 101–510, div. A, title III, § 329(a)(2), Nov. 5, 1990, 104 Stat. 1534, amended item 7604 generally, substituting ''Ships' stores: sale of goods and services'' for ''Profits: ships' stores''.

1985—Pub. L. 99–145, title XIII, § 1301(c)(3)(C), Nov. 8, 1985, 99 Stat. 736, inserted ''the'' before ''naval service'' and ''and widowers'' after ''widows'' in item 7601.

## § 7601. Sales: members of the naval service and Coast Guard; widows and widowers; civilian employees and other persons

(a) Such stores as the Secretary of the Navy designates may be procured and sold to members of the naval service, members of the Coast Guard, and widows and widowers of such members.

(b) The Secretary may, by regulation, provide for the procurement and sale of stores designated by him to such civilian officers and employees of the United States, and such other persons, as he considers proper—

(1) at military installations outside the United States; and

(2) at military installations inside the United States where he determines that it is impracticable for those civilian officers, employees, and persons to obtain those stores from private agencies without impairing the efficient operation of naval activities.

However, sales to civilian officers and employees inside the United States may be made only to those residing within military installations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 470; Pub. L. 99–145, title XIII, § 1301(c)(3)(A), (B), Nov. 8, 1985, 99 Stat. 736.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7601(a) ..... | 34 U.S.C. 533. | Mar. 3, 1909, ch. 255, 35 Stat. 768 (1st proviso); Apr. 14, 1937, ch. 78, 50 Stat. 63; June 10, 1939, ch. 196, 53 Stat. 814; Jan. 23, 1942, ch. 15, 56 Stat. 13; Apr. 9, 1943, ch. 39, 57 Stat. 60; Aug. 8, 1953, ch. 390, § 2, 67 Stat. 499. |
| 7601(b) ..... | 34 U.S.C. 533a. | Aug. 8, 1953, ch. 390, § 1 (as applicable to Secretary of the Navy), 67 Stat. 499. |

In subsection (a) the words ''members of the naval service'' are substituted for the words ''officers and enlisted men of the Navy, Marine Corps''.

In subsection (b) the word ''outside'' is substituted for the words ''beyond the continental limitations''. The words ''or in Alaska'' are omitted, since, in section 101(1) of this title, the words, ''United States'' are defined to include only the States and the District of Columbia. The word ''continental'', after the words ''within the'', is omitted for the same reason. The last sentence is substituted for 34 U.S.C. 533a (proviso).

AMENDMENTS

1985—Pub. L. 99–145, § 1301(c)(3)(B), inserted ''the'' before ''naval service'' and ''and widowers'' after ''widows'' in section catchline.

Subsec. (a). Pub. L. 99–145, § 1301(c)(3)(A), inserted ''and widowers'' after ''widows''.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## § 7602. Sales: members of Army and Air Force; prices

The Navy and the Marine Corps shall sell subsistence supplies to any member of the Army or the Air Force at prices charged members of the naval service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 471.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7602 ..... | 34 U.S.C. 538. | Aug. 29, 1916, ch. 418, § 1, 39 Stat. 630 (less words before semicolon of 3d proviso under ''Subsistence of the Army''). |

This section is expanded to cover sales to members of the Air Force, as authorized by § 305(a) of the National Security Act of 1947, as amended (5 U.S.C. 171*l*).

## § 7603. Sales: veterans under treatment

A person who has been separated honorably or under honorable conditions from the Army, the Navy, the Air Force, or the Marine Corps and who is receiving care and medical treatment from the Public Health Service or the Department of Veterans Affairs may buy subsistence supplies and other supplies, except articles of uniform, from the Navy and the Marine Corps at prices charged members of the naval service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 471; Pub. L. 101–189, div. A, title XVI, § 1621(a)(1), Nov. 29, 1989, 103 Stat. 1602.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7603 ..... | 34 U.S.C. 536. | June 5, 1920, ch. 240 (par. under ''Purchase of Army Stores by Discharged Receiving Treatment from the Public Health Service''), 41 Stat. 976. |

The word ''separated'' is substituted for the word ''discharged''. The words ''under honorable conditions'' are added since this provision is interpreted as benefiting personnel discharged under honorable conditions. The words ''Air Force'' are supplied under the authority of § 305(a) of the National Security Act of 1947, as amended (5 U.S.C. 171*l*). The words ''Veterans' Administration'' are added under the authority of the Act of August 9, 1921, ch. 57, 42 Stat. 148, which transferred care of veterans to the Veterans' Bureau, the Act of June 7, 1924, ch. 320, 43 Stat. 610, which transferred all

hospitals under the jurisdiction of the Public Health Service to the Veterans' Bureau, and the Act of July 3, 1930, ch. 863, § 1, 46 Stat. 1016, under which the President by Executive Order No. 5398, July 21, 1930, transferred the Veterans' Bureau to the Veterans' Administration. The words ''while undergoing such care and treatment'' are omitted as surplusage.

AMENDMENTS

1989—Pub. L. 101–189 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

## § 7604. Ships' stores: sale of goods and services

(a) IN GENERAL.—Under such regulations and at such prices as the Secretary of the Navy may prescribe, the Secretary may provide for the sale of goods and services from ships' stores to members of the naval service and to such other persons as provided by law.

(b) INCIDENTAL SERVICES.—The Secretary of the Navy may provide financial services, space, utilities, and labor to ships' stores on a nonreimbursable basis.

(c) ITEMS SOLD.—Merchandise sold by ship stores afloat shall include items in the following categories:

(1) Health, beauty, and barber items.

(2) Prerecorded music and videos.

(3) Photographic batteries and related supplies.

(4) Appliances and accessories.

(5) Uniform items, emblematic and athletic clothing, and equipment.

(6) Luggage and leather goods.

(7) Stationery, magazines, books, and supplies.

(8) Sundry, games, and souvenirs.

(9) Beverages and related food and snacks.

(10) Laundry, tailor, and cleaning supplies.

(11) Tobacco products.

(Added Pub. L. 101–510, div. A, title III, § 329(a)(1), Nov. 5, 1990, 104 Stat. 1534; amended Pub. L. 103–160, div. A, title III, § 371(a), formerly § 371(c), Nov. 30, 1993, 107 Stat. 1635, renumbered § 371(a), Pub. L. 104–106, div. A, title III, § 340(a)(2), Feb. 10, 1996, 110 Stat. 265.)

PRIOR PROVISIONS

A prior section 7604, acts Aug. 10, 1956, ch. 1041, 70A Stat. 471; Nov. 2, 1966, Pub. L. 89–718, § 44, 80 Stat. 1120, related to profit on sales from ships' stores, prior to repeal by Pub. L. 101–510, § 329(a)(1).

AMENDMENTS

1993—Pub. L. 103–160 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1993 AMENDMENT

Section 371(b), formerly section 371(d) of Pub. L. 103–160, renumbered § 371(b) by Pub. L. 104–106, div. A, title III, § 340(a)(2), Feb. 10, 1996, 110 Stat. 265; as amended by Pub. L. 103–337, div. A, title III, § 374(b), Oct. 5, 1994, 108 Stat. 2736, provided that: ''Subsections (b) and (c) of section 7604 of title 10, United States Code, as added by subsection (c) [now (a)], shall take effect on October 1, 1994.''

REGULATIONS

Section 329(a)(3) of Pub. L. 101–510 provided that: ''The regulations required to be prescribed under section 7604 of title 10, United States Code (as amended by paragraph (1)), shall be first prescribed not later than 90 days after the date of the enactment of this Act [Nov. 5, 1990].''

CONVERSION OF SHIPS' STORES TO OPERATION AS NONAPPROPRIATED FUND INSTRUMENTALITIES; TRANSFER OF FUNDS

Section 371(a), (b) of Pub. L. 103–160, as amended by Pub. L. 103–337, div. A, title III, § 374(a), Oct. 5, 1994, 108 Stat. 2736, provided that not later than Dec. 31, 1995, Secretary of the Navy was to convert operation of all ships' stores from operation as activity funded by direct appropriations to operation by Navy Exchange Service Command as activity funded from sources other than appropriated funds, prior to repeal by Pub. L. 104–106, div. A, title III, § 340(a)(1), Feb. 10, 1996, 110 Stat. 265.

## § 7605. Acceptance of Government checks outside the United States

Notwithstanding section 3302(a) of title 31, the Secretary of the Navy may authorize the officer in charge of any commissary store or ship's store ashore located outside the United States to—

(1) accept any Government check tendered by a retired member of the Navy or the Marine Corps, a member of the Navy Reserve or the Marine Corps Reserve, or a member of the Fleet Reserve or the Fleet Marine Corps Reserve, if the member is the payee of the check and the check is tendered in payment of amounts due from the member to the store; and

(2) refund in cash any difference between the amount due and the amount of the tendered check.

(Aug. 10, 1956, ch. 1041, 70A Stat. 471; Pub. L. 96–513, title V, § 513(42), Dec. 12, 1980, 94 Stat. 2935; Pub. L. 97–258, § 3(b)(10), Sept. 13, 1982, 96 Stat. 1064; Pub. L. 109–163, div. A, title V, § 515(b)(1)(V), Jan. 6, 2006, 119 Stat. 3233.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7605 ..... | 34 U.S.C. 552. | July 15, 1939, ch. 285, 53 Stat. 1043. |

Since the authority of this section to refund any cash balance extends only to the payee of a check, the section is written to authorize only the payee to cash it. The Fleet Reserve and the Fleet Marine Corps Reserve were parts of the Naval Reserve and the Marine Corps Reserve, respectively, when the source statute was enacted but were removed therefrom by the Armed Forces Reserve Act of 1952. The words ''or a member of the Fleet Reserve or the Fleet Marine Corps Reserve'' are inserted in clause (1) to give this section the same applicability as the source.

AMENDMENTS

2006—Par. (1). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

1982—Pub. L. 97–258 substituted ''section 3302(a) of title 31'' for ''sections 3639 and 3651 of the Revised Statutes (31 U.S.C. 521 and 543)''.

1980—Pub. L. 96–513 substituted ''sections 3639 and 3651 of the Revised Statutes (31 U.S.C. 521 and 543)'' for ''sections 521 and 543 of title 31''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

### § 7606. Subsistence and other supplies: members of armed forces; veterans; executive or military departments and employees; prices

(a)(1) The Secretary of the Navy shall procure and sell, for cash or credit—

(A) articles designated by the Secretary to members of the Navy and Marine Corps; and

(B) items of individual clothing and equipment to members of the Navy and Marine Corps, under such restrictions as the Secretary may prescribe.

(2) An account of sales on credit shall be kept and the amount due reported to the Secretary. Except for articles and items acquired through the use of working capital funds under section 2208 of this title, sales of articles shall be at cost, and sales of individual clothing and equipment shall be at average current prices, including overhead, as determined by the Secretary.

(b) The Secretary shall sell subsistence supplies to members of other armed forces at the prices at which like property is sold to members of the Navy and Marine Corps.

(c) The Secretary may sell serviceable supplies, other than subsistence supplies, to members of other armed forces for the buyers' use in the service. The prices at which the supplies are sold shall be the same prices at which like property is sold to members of the Navy and Marine Corps.

(d) A person who has been discharged honorably or under honorable conditions from the Army, Navy, Air Force or Marine Corps and who is receiving care and medical treatment from the Public Health Service or the Department of Veterans Affairs may buy subsistence supplies and other supplies, except articles of uniform, at the prices at which like property is sold to members of the Navy and Marine Corps.

(e) Under such conditions as the Secretary may prescribe, exterior articles of uniform may be sold to a person who has been discharged honorably or under honorable conditions from the Navy or Marine Corps, at the prices at which like articles are sold to members of the Navy or Marine Corps. This subsection does not modify section 772 or 773 of this title.

(f) Under regulations prescribed by the Secretary, payment for subsistence supplies shall be made in cash or by commercial credit.

(g)(1) The Secretary may provide for the procurement and sale of stores designated by the Secretary to such civilian officers and employees of the United States, and such other persons, as the Secretary considers proper—

(A) at military installations outside the United States; and

(B) subject to paragraph (2), at military installations inside the United States where the Secretary determines that it is impracticable for those civilian officers, employees, and persons to obtain such stores from commercial enterprises without impairing the efficient operation of military activities.

(2) Sales to civilian officers and employees inside the United States may be made under paragraph (1) only to civilian officers and employees residing within military installations.

(h) Appropriations for subsistence of the Navy or Marine Corps may be applied to the purchase of subsistence supplies for sale to members of the Navy and Marine Corps on active duty for the use of such members and their families.

(Added Pub. L. 104–106, div. A, title III, § 375(a)(1), Feb. 10, 1996, 110 Stat. 281; amended Pub. L. 105–85, div. A, title X, § 1073(a)(63), Nov. 18, 1997, 111 Stat. 1903.)

AMENDMENTS

1997—Subsec. (e). Pub. L. 105–85 substituted ''section'' for ''sections''.

## CHAPTER 653—CLAIMS

Sec.
7621. Definitions.
7622. Admiralty claims against the United States.
7623. Admiralty claims by the United States.
[7624, 7625. Repealed.]

AMENDMENTS

1962—Pub. L. 87–769, § 1(2)(B), Oct. 9, 1962, 76 Stat. 768, struck out item 7625 ''Claims against the United States: private property; loss or damage''.

1960—Pub. L. 86–533, § 1(10)(B), June 29, 1960, 74 Stat. 247, struck out item 7624 ''Reports to Congress''.

### § 7621. Definitions

(a) In this chapter ''vessel in the naval service'' means—

(1) any vessel of the Navy, manned by the Navy, or chartered on bareboat charter to the Navy; or

(2) when the Coast Guard is operating as a service in the Navy, any vessel of the Coast Guard, manned by the Coast Guard, or chartered on bareboat charter to the Coast Guard.

(b) In this chapter ''settle'' means consider, ascertain, adjust, determine, and dispose of a claim, whether by full or partial allowance or by disallowance.

(Aug. 10, 1956, ch. 1041, 70A Stat. 472.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7621 ..... | 46 U.S.C. 793. | July 3, 1944, ch. 399, § 3, 58 Stat. 724. |

In subsection (a) the words ''vessel in the naval service'' are substituted for the words ''vessels of the Navy or in the naval service''. The defined term is used throughout the chapter, and by definition includes vessels of the Navy. The words ''when the Coast Guard is operating as a service in the Navy'' are substituted for the words ''the Coast Guard when operating as a part of the Navy'' to conform to the terminology of 14 U.S.C. 3.

Subsection (b) is inserted for clarity, and is based on the source laws for this revised chapter.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### § 7622. Admiralty claims against the United States

(a) The Secretary of the Navy may settle, or compromise, and pay in an amount not more

than $15,000,000 an admiralty claim against the United States for—

(1) damage caused by a vessel in the naval service or by other property under the jurisdiction of the Department of the Navy;

(2) compensation for towage and salvage service, including contract salvage, rendered to a vessel in the naval service or to other property under the jurisdiction of the Department of the Navy; or

(3) damage caused by a maritime tort committed by any agent or employee of the Department of the Navy or by property under the jurisdiction of the Department of the Navy.

(b) If a claim under this section is settled or compromised for more than $15,000,000, the Secretary shall certify it to Congress.

(c) In any case where the amount to be paid is not more than $1,000,000, the Secretary may delegate his authority under this section to any person designated by him.

(d) Upon acceptance of payment by the claimant, the settlement or compromise of a claim under this section is final and conclusive notwithstanding any other provision of law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 472; Pub. L. 89–67, July 7, 1965, 79 Stat. 212; Pub. L. 92–417, §1(5), Aug. 29, 1972, 86 Stat. 654; Pub. L. 101–189, div. A, title XVI, §1633, Nov. 29, 1989, 103 Stat. 1608; Pub. L. 107–107, div. A, title X, §1014(a), Dec. 28, 2001, 115 Stat. 1212.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7622 ..... | 46 U.S.C. 797. | July 3, 1944, ch. 399, §7, 58 Stat. 726. |
| | 46 U.S.C. 799. | July 3, 1944, ch. 399, §9; added Aug. 2, 1946, ch. 739, 60 Stat. 803. |

In subsection (a) the words ''consider, ascertain, adjust, determine'' are omitted as covered by the word ''settle'', as defined in §7621(b) of this title. The words ''vessel in the naval service'' are substituted for the words ''vessels of the Navy or in the naval service'', in view of the definition in §7621(a) of this title. The words ''pay in an amount not more than $1,000,000, a claim'' are substituted for the words ''pay the amount of any claim, so determined, compromised, or settled'' and for the words ''the payment of any claim on which a net amount exceeding $1,000,000 is determined to be due from the United States, or which is compromised or settled at a net amount exceeding $1,000,000 payable by the United States, shall not be authorized by this section''.

In subsection (c) the words ''In any case where the amount to be paid is not more than'' are substituted for the words ''When the net amount paid in settlement does not exceed'' for clarity, since the delegation necessarily precedes payment. The words ''the Secretary may delegate his authority'' are substituted for the words ''the authority of the Secretary of the Navy * * * may be exercised by'' for clarity.

In subsection (d) the words ''but not until then'', ''for all purposes'', and ''to the contrary'' are omitted as surplusage.

The first proviso in 46 U.S.C. 797, stating that this section is supplementary to, and not in lieu of, other laws authorizing the settlement of claims, is omitted as unnecessary, since the other applicable claims laws are restated in this title. The second proviso, forbidding consideration of claims for more than $3,000 if they accrued before Sept. 8, 1939, is omitted as obsolete. It was designed to avoid reviving stale claims upon enactment of the source law on July 3, 1944. However, as a matter of practice, no claims are settled under this authority which are more than two years old, in line with the two-year statute of limitations contained in the Suits in Admiralty Act and the Public Vessels Act. This limitation has been officially publicized in the Federal Register for May 22, 1947, p. 3296, and in 32 C.F.R. 752. The third proviso in 46 U.S.C. 797 is omitted as unnecessary, since the appropriation named therein no longer exists, and the payments are now made from appropriations for the Department of Defense.

AMENDMENTS

2001—Subsecs. (a), (b). Pub. L. 107–107, §1014(a)(1), substituted ''$15,000,000'' for ''$1,000,000''.

Subsec. (c). Pub. L. 107–107, §1014(a)(2), substituted ''$1,000,000'' for ''$100,000''.

1989—Subsec. (c). Pub. L. 101–189 substituted ''$100,000'' for ''$10,000''.

1972—Subsec. (a). Pub. L. 92–417 substituted ''an admiralty claim against the United States'' for ''a claim against the United States'' in text preceding par. (1), in par. (1) inserted ''or by other property under the jurisdiction of the Department of the Navy'', in par. (2) inserted ''or to other property under the jurisdiction of the Department of the Navy'', and added par. (3).

1965—Subsec. (c). Pub. L. 89–67 substituted ''$10,000'' for ''$1,000''.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–107, div. A, title X, §1014(c), Dec. 28, 2001, 115 Stat. 1212, provided that: ''The amendments made by this section [amending this section and section 7623 of this title] shall apply with respect to any claim accruing on or after February 1, 2001.''

## § 7623. Admiralty claims by the United States

(a) The Secretary of the Navy may settle, or compromise, and receive payment of a claim by the United States for damage to property under the jurisdiction of the Department of the Navy or property for which the Department has assumed an obligation to respond for damage, if—

(1) the claim is—

(A) of a kind that is within the admiralty jurisdiction of a district court of the United States; or

(B) for damage caused by a vessel or floating object; and

(2) the net amount to be received by the United States is not more than $15,000,000.

(b) In exchange for payment of an amount found to be due the United States under this section, the Secretary may execute a release of the claim on behalf of the United States. Amounts received under this section shall be covered into the Treasury.

(c) In any case where the amount to be received by the United States is not more than $1,000,000, the Secretary may delegate his authority under this section to any person designated by him.

(d) Upon acceptance of payment by the Secretary, the settlement or compromise of a claim under this section is final and conclusive notwithstanding any other provision of law.

(e) This section does not apply to any claim while there is pending as to that claim a suit filed by or against the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 472; Pub. L. 89–67, July 7, 1965, 79 Stat. 212; Pub. L. 101–189, div. A, title XVI, §1633, Nov. 29, 1989, 103 Stat. 1608; Pub. L. 107–107, div. A, title X, §1014(b), Dec. 28, 2001, 115 Stat. 1212.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7623 ..... | 34 U.S.C. 600a. | Dec. 5, 1945, ch. 555, § 1, 59 Stat. 596. |
| | 34 U.S.C. 600d. | Dec. 5, 1945, ch. 555, § 4; added Aug. 2, 1946, ch. 742, 60 Stat. 806. |
| | 34 U.S.C. 600c. | Dec. 5, 1945, ch. 555, § 3, 59 Stat. 596. |

In subsection (a) the words ''consider, ascertain, adjust, determine'' are omitted as covered by the word ''settle'', as defined in section 7621(b) of this title. The words ''of the United States'' (following the word ''property''), ''by contract or otherwise'', and ''thereto'' are omitted as surplusage. The words ''of a kind that is within the admiralty jurisdiction of'' are substituted for the words ''cognizable in admiralty in''. The words ''receive payment of a claim * * * if the net amount to be received by the United States is not more than $1,000,000'' are substituted for the words ''receive in payment of any such claim the amount due the United States pursuant to determination, compromise, or settlement as herein authorized * * * *Provided, further*, That no settlement or compromise where there is involved a payment in the net amount of over $1,000,000 shall be authorized by this Act''.

In subsection (b) the words ''and to deliver'' are omitted as covered by the word ''execute''. The words ''Amounts received under this section'' are substituted for the words ''All such payments'' for clarity and uniformity. The words ''of the United States as miscellaneous receipts'' are omitted as surplusage.

In subsection (c) the words ''In any case where the amount to be received by the United States is not more than'' are substituted for the words ''Where the net amount received in settlement does not exceed'' for clarity, since the delegation of authority necessarily precedes receipt of payment. The words ''the Secretary may delegate his authority'' are substituted for the words ''the authority of the Secretary of the Navy * * * may be exercised'' for clarity.

In subsection (d) the words ''but not until then'', ''for all purposes'', and ''to the contrary'' are omitted as surplusage.

Subsection (e) is worded to insure that the effect of a suit pending at any time is preserved and that the provision is not interpreted to apply only to suits that are pending on the date of enactment of this title.

The first proviso of 34 U.S.C. 600a, stating that this section is supplementary to, and not in lieu of, other laws authorizing the settlement of claims, is omitted as unnecessary, since the other applicable claims laws are restated in this title.

AMENDMENTS

2001—Subsec. (a)(2). Pub. L. 107–107, § 1014(b)(1), substituted ''$15,000,000'' for ''$1,000,000''.

Subsec. (c). Pub. L. 107–107, § 1014(b)(2), substituted ''$1,000,000'' for ''$100,000''.

1989—Subsec. (c). Pub. L. 101–189 substituted ''$100,000'' for ''$10,000''.

1965—Subsec. (c). Pub. L. 89–67 substituted ''$10,000'' for ''$1,000''.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–107 applicable with respect to any claim accruing on or after Feb. 1, 2001, see section 1014(c) of Pub. L. 107–107, set out as a note under section 7622 of this title.

### [§ 7624. Repealed. Pub. L. 86–533, § 1(10)(A), June 29, 1960, 74 Stat. 247]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 473, related to reports to Congress with respect to amounts paid or received under sections 7622 and 7623 of this title.

### [§ 7625. Repealed. Pub. L. 87–769, § 1(2)(A), Oct. 9, 1962, 76 Stat. 768]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 473, related to settlement of claims for damage to or loss of privately owned property. See section 2736 of this title.

## CHAPTER 655—PRIZE

Sec.
7651. Scope of chapter.
7652. Jurisdiction.
7653. Court in which proceedings brought.
7654. Effect of failure to start proceedings.
7655. Appointment of prize commissioners and special prize commissioners.
7656. Duties of United States attorney.
7657. Duties of commanding officer of capturing vessel.
7658. Duties of prize master.
7659. Libel and proceedings by United States attorney.
7660. Duties of prize commissioners.
7661. Interrogation of witnesses by prize commissioners.
7662. Duties of marshal.
7663. Prize property appropriated for the use of the United States.
7664. Delivery of property on stipulation.
7665. Sale of prize.
7666. Mode of making sale.
7667. Transfer of prize property to another district for sale.
7668. Disposition of prize money.
7669. Security for costs.
7670. Costs and expenses a charge on prize property.
7671. Payment of costs and expenses from prize fund.
7672. Recaptures: award of salvage, costs, and expenses.
7673. Allowance of expenses to marshals.
7674. Payment of witness fees.
7675. Commissions of auctioneers.
7676. Compensation of prize commissioners and special prize commissioners.
7677. Accounts of clerks of district courts.
7678. Interfering with delivery, custody, or sale of prize property.
7679. Powers of district court over prize property notwithstanding appeal.
7680. Appeals and amendments in prize causes.
7681. Reciprocal privileges to cobelligerent.

### § 7651. Scope of chapter

(a) This chapter applies to all captures of vessels as prize during war by authority of the United States or adopted and ratified by the President. However, this chapter does not affect the right of the Army or the Air Force, while engaged in hostilities, to capture wherever found and without prize procedure—

(1) enemy property; or

(2) neutral property used or transported in violation of the obligations of neutrals under international law.

(b) As used in this chapter—

(1) ''vessel'' includes aircraft; and

(2) ''master'' includes the pilot or other person in command of an aircraft.

(c) Property seized or taken upon the inland waters of the United States by its naval forces is not maritime prize. All such property shall be delivered promptly to the proper officers of the courts.

(d) Nothing in this chapter may be construed as contravening any treaty of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 474.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7651(a) ..... | 34 U.S.C. 1131 (less 1st proviso). | R.S. 4613 (less 1st proviso); June 24, 1941, ch. 232, 55 Stat. 261. |
| | 34 U.S.C. 1159 (as applicable to capture). | Aug. 18, 1942, ch. 553, §1 (as applicable to capture), 56 Stat. 746; July 1, 1944, ch. 370, §1, 58 Stat. 678; Nov. 14, 1945, ch. 472, §1, 59 Stat. 581. |
| 7651(b) ..... | 34 U.S.C. 1131 (1st proviso). | R.S. 4613 (1st proviso); June 24, 1941, ch. 232, 55 Stat. 261. |
| | 34 U.S.C. 1132. | R.S. 4614; June 24, 1941, ch. 232, 55 Stat. 261. |
| 7651(c) ..... | 50 U.S.C. 214. | R.S. 5310. |
| 7651(d) ..... | 34 U.S.C. 1158 (last sentence). | R.S. 4652 (last sentence). |

In subsection (a) the words ''including aircraft'' are omitted as covered by subsection (b). The section is written to make the words ''during war'' applicable to the entire chapter. These words appear in 34 U.S.C. 1159, but not in 34 U.S.C. 1131. Prize is historically and uniformly treated as a war-time matter, so no substantive change results from the extension. The words ''this chapter does not affect'' are substituted for the words ''nothing herein contained shall be construed as affecting, or in any way impairing''. The words ''Air Force'' are added under authority of §305(a) of the National Security Act of 1947, as amended (5 U.S.C. 171*l*), to provide the same applicability as formerly provided by the word ''Army''. The word ''legal'' is omitted as surplusage.

In subsection (b) the definition of the term ''ship'' is omitted as covered by the term ''vessel''. All of 34 U.S.C. 1132 except that part which includes ''aircraft'' within the term ''vessels'' is omitted as unnecessary since the defined term ''vessels of the Navy'' does not appear in the provisions to which the definition is made applicable. The last sentence of 34 U.S.C. 1158 applies only to Title LIV (Prize) of the Revised Statutes. In subsection (d) it is broadened to cover the entire body of statutory prize law. Additions to the prize law made by the Act of August 18, 1942, ch. 553, 56 Stat. 746, as amended, operated only to extend the jurisdiction of courts of the United States to certain cases in which the prizes are not brought into the territorial waters of the United States. Relations of this country with other countries are not affected by the 1942 Act except when jurisdiction is exercised by American courts over prizes brought into cobelligerent ports. As that Act provides that the consent of the cobelligerent is necessary to the exercise of such jurisdiction, the rule against contravention of treaties is properly applied to it.

## § 7652. Jurisdiction

(a) The United States district courts have original jurisdiction, exclusive of the courts of the States, of each prize and each proceeding for the condemnation of property taken as prize, if the prize is—

(1) brought into the United States, or the Commonwealths or possessions;

(2) brought into the territorial waters of a cobelligerent;

(3) brought into a locality in the temporary or permanent possession of, or occupied by, the armed forces of the United States; or

(4) appropriated for the use of the United States.

(b) The United States district courts, exclusive of the courts of the States, also have original jurisdiction of a prize cause in which the prize property—

(1) is lost or entirely destroyed; or

(2) cannot be brought in for adjudication because of its condition.

(c) The jurisdiction conferred by this section of prizes brought into the territorial waters of a cobelligerent may not be exercised, nor may prizes be appropriated for the use of the United States within those territorial waters, unless the government having jurisdiction over those waters consents to the exercise of the jurisdiction or to the appropriation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 474; Pub. L. 109–163, div. A, title X, §1057(a)(5), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7652(a) ..... | 34 U.S.C. 1159 (less applicability to capture). | Aug. 18, 1942, ch. 553, §1 (less applicability to capture), 56 Stat. 746; July 1, 1944, ch. 370, §1, 58 Stat. 678; Nov. 14, 1945, ch. 472, §1, 59 Stat. 581. |
| | 34 U.S.C. 1164 (2d sentence). | Aug. 18, 1942, ch. 553, §6 (less 1st sentence), 56 Stat. 747. |
| 7652(c) ..... | 34 U.S.C. 1166. | Aug. 18, 1942, ch. 553, §8, 56 Stat. 747. |
| | 34 U.S.C. 1161. | Aug. 18, 1942, ch. 553, §3, 56 Stat. 746. |

Subsection (a) reflects 28 U.S.C. 1333 by restating the basic prize jurisdiction of that section over prizes brought into the United States, and by providing that the extension of prize jurisdiction conferred by 34 U.S.C. 1159 on the United States district courts is exclusive of the courts of the States. 34 U.S.C. 1166 and the second sentence of 34 U.S.C. 1164 are executed in the single jurisdictional statement of this section and the consolidation of the Act of August 18, 1942, ch. 553, 56 Stat. 746 (34 U.S.C. 1159–1166) with the earlier prize provisions. The words ''during war'' in 34 U.S.C. 1159 are omitted as covered in §7651 of this title. In clause (1) the words ''or the Territories, Commonwealths, or possessions'' are added, since ''United States'' in this title is geographically limited to the 48 States and the District of Columbia, whereas the term here is intended to include all places within the jurisdiction of the district courts.

In clause (4) the words ''taken or'' preceding the words ''appropriated for the use of the United States'' are omitted as surplusage and in order to avoid confusion between the two meanings of the word ''taken'' in prize law. In both the Revised Statutes and the 1942 Act the phrase ''taken or appropriated'' means no more than ''appropriated'' alone, whereas ''taken'', in the phrase ''taken as prize'' means ''captured''.

Subsection (b) is included to make the statement of jurisdiction complete. It is derived by implication from the first sentence of R.S. 4625 (34 U.S.C. 1141) which is the source of subsection (c) of §7653 of this title.

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109–163 substituted ''Commonwealths or possessions'' for ''Territories, Commonwealths, or possessions''.

## § 7653. Court in which proceedings brought

(a) If a prize is brought into a port of the United States, or the Commonwealths or possessions, proceedings for the adjudication of the prize cause shall be brought in the district in which the port is located.

(b) If a prize is brought into the territorial waters of a cobelligerent, or is brought into a locality in the temporary or permanent possession of, or occupied by, the armed forces of the

United States, or is appropriated for the use of the United States, before proceedings are started, the venue of the proceedings for adjudication of the cause shall be in the judicial district selected by the Attorney General, or his designee, for the convenience of the United States.

(c) If the prize property is lost or entirely destroyed or if, because of its condition, no part of it has been or can be sent in for adjudication, proceedings for adjudication of the cause may be brought in any district designated by the Secretary of the Navy. In such cases the proceeds of anything sold shall be deposited with the Treasurer of the United States or public depositary in or nearest the district designated by the Secretary, subject to the orders of the court for that district.

(Aug. 10, 1956, ch. 1041, 70A Stat. 474; Pub. L. 109–163, div. A, title X, §1057(a)(5), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7653(b) ..... | 34 U.S.C. 1160. | Aug. 18, 1942, ch. 553, §2, 56 Stat. 746. |
| 7653(c) ..... | 34 U.S.C. 1141 (less last sentence). | R.S. 4625 (less last sentence). |

Subsection (a) is inserted in order to present a complete statement of the subject matter of the section. Its substance is not specifically set out in the Revised Statutes but is strongly implied in 34 U.S.C. 1135 which requires the United States attorney for the district in which the port is located to file a libel.

In subsection (b) the requisites for jurisdiction conferred under the 1942 Act are substituted for the words ''brought under the jurisdiction conferred by this Act''. The substituted words are the same as those used in clauses (2), (3), and (4) of the preceding section except that the words ''before proceedings are started'' are added following the words ''appropriated for the use of the United States'' for clarity. An appropriation can take place before or after proceedings are commenced, but in the latter case there is no occasion for the Attorney General to determine venue.

In subsection (c) the words ''or if because the whole has been appropriated to the use of the United States'' and the words ''or the value of anything taken or appropriated for the use of the United States'' are omitted. The provision in the 1942 Act which empowers the Attorney General to decide the venue of proceedings when the prize property has been appropriated is incompatible with the provision in R.S. 4625 which authorizes the Secretary of the Navy to select the judicial district in such cases. Hence the 1942 Act superseded R.S. 4625 with respect to cases of this type. Deposit of the value of prize property appropriated by the United States is adequately covered in §7663 of this title and is not mentioned here. The second sentence of 34 U.S.C. 1141 (R.S. 4625), relating to proceedings by captors, is omitted because it was rendered inoperative by the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, which repealed all laws authorizing the distribution of prize money to captors.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–163 substituted ''Commonwealths or possessions'' for ''Territories, Commonwealths, or possessions''.

## § 7654. Effect of failure to start proceedings

If a vessel is captured as prize and no proceedings for adjudication are started within a reasonable time, any party claiming the captured property may, in any district court as a court of prize—

(1) move for a monition to show cause why such proceedings shall not be started; or

(2) bring an original suit for restitution.

The monition issued in either case shall be served on the United States Attorney for the district, on the Secretary of the Navy, and on such other persons as are designated by order of the court.

(Aug. 10, 1956. ch. 1041, 70A Stat. 475.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7654 ..... | 34 U.S.C. 1141 (last sentence). | R.S. 4625 (last sentence). |

## § 7655. Appointment of prize commissioners and special prize commissioners

(a) In each judicial district there may be not more than three prize commissioners, one of whom is the naval prize commissioner. They shall be appointed by the district court for service in connection with any prize cause in which proceedings are brought under section 7653(a) or (c) of this title. The naval prize commissioner must be an officer of the Navy whose appointment is approved by the Secretary of the Navy. The naval prize commissioner shall protect the interests of the Department of the Navy in the prize property. At least one of the other commissioners must be a member of the bar of the court, of not less than three years' standing, who is experienced in taking depositions.

(b) A district court may appoint special prize commissioners to perform abroad, in connection with any prize cause in which proceedings are brought under section 7653(b) of this title, the duties prescribed for prize commissioners, and, in connection with those causes, to exercise anywhere such additional powers and perform such additional duties as the court considers proper, including the duties prescribed by this chapter for United States marshals. The court may determine the number and qualifications of the special prize commissioners it appoints, except that for each cause there shall be at least one naval special prize commissioner. The naval special prize commissioner must be an officer of the Navy whose appointment is approved by the Secretary. The naval special prize commissioner shall protect the interests of the Department of the Navy in the prize property.

(Aug. 10, 1956, ch. 1041, 70A Stat. 475.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7655(a) ..... | 34 U.S.C. 1137 (less applicability to compensation of the naval prize commissioner). | R.S. 4621 (less applicability to compensation of the naval prize commissioner); Nov. 14, 1945, ch. 472, §2, 59 Stat. 581. |
| 7655(b) ..... | 34 U.S.C. 1163 (less applicability to compensation of the naval special prize commissioner). | Aug. 18, 1942, ch. 553, §5 (less applicability to compensation of the naval special prize commissioner), 56 Stat. 746. |

The first sentence of subsection (a) is reworded to make it clear that the limitation as to number applies to the number of prize commissioners who may serve in

each judicial district at any one time and that the court is not precluded from making additional appointments to fill vacancies. The words ''for service in connection with any prize cause in which proceedings are brought under section 7653(a) or (c) of this title'' are added to distinguish the prize commissioners from the special prize commissioners mentioned in subsection (b). The words ''officer of the Navy'' in subsections (a) and (b) are substituted for the words ''naval officer, active or retired'' because an officer of the Navy does not lose his status as such upon retirement, and to retain these words would open to question the many other provisions in this subtitle treating retired officers as officers.

In subsection (b) the words ''in connection with any prize cause in which proceedings are brought under section 7653(b) of this title'' are substituted for the words ''in cases arising under this Act'' for accuracy of reference. The words ''including the duties prescribed by this chapter for United States marshals'' are added for clarity. Section 7662 of this title prescribes the duties of marshals. Most of these duties could not be performed by the marshals if the prize was not brought into a United States port. In such cases occurring during World War II the courts, under the authority of the 1942 Act, required the special prize commissioners to perform the duties ordinarily performed by the marshals. The words ''without regard for the requirements of section 7367 of this title'' are omitted as unnecessary, since that section is codified in subsection (a), and language distinguishing the prize commissioners from the special prize commissions is included in each subsection.

### § 7656. Duties of United States attorney

(a) The interests of the United States in a prize cause shall be represented by the United States attorney for the judicial district in which the prize cause is adjudicated. The United States attorney shall protect the interests of the United States and shall examine all fees, costs, and expenses sought to be charged against the prize fund.

(b) In a judicial district where one or more prize causes are pending the United States attorney shall send to the Secretary of the Navy, at least once every three months, a statement of all such causes in the form and covering the particulars required by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 475.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7656 ..... | 34 U.S.C. 1136. | R.S. 4619. |

The Act of March 3, 1899, ch. 413, § 13, 30 Stat. 1007, which repealed all laws authorizing the distribution of prize money to captors, rendered inoperative parts of R.S. 4619 relative to protection of captors' interest. These parts are omitted from 34 U.S.C. 1136 and from the revised section.

### § 7657. Duties of commanding officer of capturing vessel

(a) The commanding officer of a vessel making a capture shall—

(1) secure the documents of the captured vessel, including the log, and the documents of cargo, together with all other documents and papers, including letters, found on board;

(2) inventory and seal all the documents and papers;

(3) send the inventory and documents and papers to the court in which proceedings are to be had, with a written statement—

(A) that the documents and papers sent are all the papers found, or explaining the reasons why any are missing; and

(B) that the documents and papers sent are in the same condition as found, or explaining the reasons why any are in different condition;

(4) send as witnesses to the prize court the master, one or more of the other officers, the supercargo, purser, or agent of the prize, and any other person found on board whom he believes to be interested in or to know the title, national character, or destination of the prize, and if any of the usual witnesses cannot be sent, send the reasons therefor to the court; and

(5) place a competent prize master and a prize crew on board the prize and send the prize, the witnesses, and all documents and papers, under charge of the prize master, into port for adjudication.

(b) In the absence of instructions from higher authority as to the port to which the prize shall be sent for adjudication, the commanding officer of the capturing vessel shall select the port that he considers most convenient in view of the interests of probable claimants.

(c) If the captured vessel, or any part of the captured property, is not in condition to be sent in for adjudication, the commanding officer of the capturing vessel shall have a survey and an appraisal made by competent and impartial persons. The reports of the survey and the appraisal shall be sent to the court in which proceedings are to be had. Property so surveyed and appraised, unless appropriated for the use of the United States, shall be sold under authority of the commanding officer present. Proceeds of the sale shall be deposited with the Treasurer of the United States or in the public depositary most accessible to the court in which proceedings are to be had and subject to its order in the cause.

(Aug. 10, 1956, ch. 1041, 70A Stat. 476.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7657 ..... | 34 U.S.C. 1133. | R.S. 4615. |

As does 34 U.S.C. 1133, the revised section reflects the Act of March 3, 1899, ch. 413, § 13, 30 Stat. 1007, and the Act of May 29, 1920, ch. 214, § 1, 41 Stat. 654, which, respectively, abolished the interest of captors in prize property and substituted ''Treasurer of the United States or public depositary'' for ''assistant treasurer of the United States''.

### § 7658. Duties of prize master

The prize master shall take the captured vessel to the selected port. On arrival he shall—

(1) deliver immediately to a prize commissioner the documents and papers and the inventory thereof;

(2) make affidavit that the documents and papers and the inventory thereof and the prize property are the same and are in the same condition as delivered to him, or explaining any loss or absence or change in their condition;

(3) report all information respecting the prize and her capture to the United States attorney;

(4) deliver the persons sent as witnesses to the custody of the United States marshal; and

(5) retain the prize in his custody until it is taken therefrom by process from the prize court.

(Aug. 10, 1956, ch. 1041, 70A Stat. 476.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7658 ..... | 34 U.S.C. 1134. | R.S. 4617. |

The word ''diligently'' is omitted as surplusage.

### § 7659. Libel and proceedings by United States attorney

(a) Upon receiving the report of the prize master directed by section 7658 of this title, the United States attorney for the district shall promptly—

(1) file a libel against the prize property;

(2) obtain a warrant from the court directing the marshal to take custody of the prize property; and

(3) proceed to obtain a condemnation of the property.

(b) In connection with the condemnation proceedings the United States attorney shall insure that the prize commissioners—

(1) take proper preparatory evidence; and

(2) take depositions de bene esse of the prize crew and of other transient persons who know any facts bearing on condemnation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 477.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7659 ..... | 34 U.S.C. 1135. | R.S. 4618. |

As does 34 U.S.C. 1135, the revised section reflects the Act of March 3, 1899, ch. 413, § 13, 30 Stat. 1007, which repealed all laws authorizing distribution of prize proceeds to captors.

### § 7660. Duties of prize commissioners

One or more of the prize commissioners shall—

(1) receive from the prize master the documents and papers of the captured vessel and the inventory thereof;

(2) take the affidavit of the prize master required by section 7658 of this title;

(3) take promptly, in the manner prescribed by section 7661 of this title, the testimony of the witnesses sent in;

(4) take, at the request of the United States attorney, on interrogatories prescribed by the court, the depositions de bene esse of the prize crew and others;

(5) examine and inventory the prize property;

(6) apply to the court for an order to the marshal to unload the cargo, if this is necessary to that examination and inventory;

(7) report to the court, and notify the United States attorney, whether any of the prize property requires immediate sale in the interest of all parties;

(8) report to the court, from time to time, any matter relating to the condition, custody, or disposal of the prize property requiring action by the court;

(9) return to the court sealed and secured from inspection—

(A) the documents and papers received, duly scheduled and numbered;

(B) the preparatory evidence;

(C) the evidence taken de bene esse; and

(D) their inventory of the prize property; and

(10) report to the Secretary of the Navy, if, in their judgment, any of the prize property is useful to the United States in the prosecution of war.

(Aug. 10, 1956, ch. 1041, 70A Stat. 477.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7660 ..... | 34 U.S.C. 1138 (less applicability to procedure for interrogating witnesses). | R.S. 4622 (less applicability to procedure for interrogating witnesses). |

The words ''but the custody of the property shall be in the marshal only'' are omitted as surplusage, since this fact is made clear in § 7662 of this title.

### § 7661. Interrogation of witnesses by prize commissioners

Witnesses before the prize commissioners shall be questioned separately, on interrogatories prescribed by the court, in the manner usual in prize courts. Without special authority from the court, the witnesses may not see the interrogatories, documents, or papers, or consult with counsel or with other persons interested in the cause. Witnesses who have the rights of neutrals shall be discharged as soon as practicable.

(Aug. 10, 1956, ch. 1041, 70A Stat. 477.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7661 ..... | 34 U.S.C. 1138 (as applicable to procedure for interrogating witnesses). | R.S. 4622 (as applicable to procedure for interrogating witnesses). |

### § 7662. Duties of marshal

The marshal shall—

(1) keep in his custody all persons found on board a prize and sent in as witnesses, until they are released by the prize commissioners or the court;

(2) keep safely in his custody all prize property under warrant from the court;

(3) report to the court any cargo or other property that he thinks should be unloaded and stored or sold;

(4) insure the prize property, if in his judgment it is in the interest of all concerned;

(5) have charge of the sale of the property, if a sale is ordered, and be responsible for the conduct of the sale in the manner required by the court, for the collection of the gross proceeds, and for their immediate deposit with

the Treasurer of the United States or public depositary nearest the place of sale, subject to the order of the court in the cause; and

(6) submit to the Secretary of the Navy, at such times as the Secretary designates, a full statement of the condition of the prize and of the disposal made thereof.

(Aug. 10, 1956, ch. 1041, 70A Stat. 478.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7662 ..... | 34 U.S.C. 1139. | R.S. 4623. |

In clause (2) the words ''in his custody'' are inserted to make clear the fact that the marshal has custody of the prize property.

In clause (5) the words ''and be responsible for'' are inserted for clarity, since 34 U.S.C. 1144 provides that the sale and deposit of the proceeds shall be made by the auctioneer and his agent rather than by the marshal, although the marshal supervises them. The words ''Treasurer of the United States or public depositary'' are substituted for ''assistant treasurer'' to reflect the Act of May 29, 1920, ch. 214, 41 Stat. 654.

## § 7663. Prize property appropriated for the use of the United States

(a) Any officer or agency designated by the President may appropriate for the use of the United States any captured vessel, arms, munitions, or other material taken as prize. The department or agency for whose use the prize property is appropriated shall deposit the value of the property with the Treasurer of the United States or with the public depositary nearest to the court in which the proceedings are to be had, subject to the orders of the court.

(b) Whenever any captured vessel, arms, munitions, or other material taken as prize is appropriated for the use of the United States before that property comes into the custody of the prize court, it shall be surveyed, appraised, and inventoried by persons as competent and impartial as can be obtained, and the survey, appraisal, and inventory sent to the court in which the proceedings are to be had. If the property is appropriated after it comes into the custody of the court, sufficient notice shall be given to enable the court to have the property appraised for the protection of the rights of the claimants.

(c) Notwithstanding subsections (a) and (b), in any case where prize property is appropriated for the use of the United States, a prize court may adjudicate the cause on the basis of an inventory and survey and an appropriate undertaking by the United States to respond for the value of the property, without either an appraisal or a deposit of the value of the prize with the Treasurer of the United States or a public depositary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 478.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7663 ..... | 34 U.S.C. 1162. | Aug. 18, 1942, ch. 553, § 4, 56 Stat. 746; July 1, 1944, ch. 370, § 2, 58 Stat. 678. |
| | 34 U.S.C. 1140. | R.S. 4624; Nov. 14, 1945, ch. 472, § 3, 59 Stat. 581. |

In subsection (a) the words ''may appropriate'' are substituted for the words ''the power to take or appropriate * * * may be exercised'', in 34 U.S.C. 1162, for clarity and uniformity of statement. Under the Revised Statutes it was implied and understood that the Navy could appropriate prizes on behalf of the United States for use by the Navy. Use by other government agencies was not contemplated. The 1942 Act enabled the Navy to turn prize vessels over to the War Shipping Administration without bringing them back to United States ports. Reference to that Administration in subsection (a) is omitted since the Administration has been abolished and these functions have not been specifically vested in its successors. It is surplusage as well, because the authority to appropriate is given to any officer or agency designated by the President.

The proviso added to R.S. 4624 (34 U.S.C. 1140) by the 1945 amendment is identical with the proviso added to the 1942 Act (34 U.S.C. 1162) by the 1944 amendment. The 1945 Act completed the process of making the procedure under the Revised Statutes the same as that in effect for causes over which the courts were given jurisdiction by the World War II legislation, and its single statement in subsection (c) is therefore justified.

34 U.S.C. 1140 and the revised section reflect the Act of March 3, 1899, ch. 413, § 13, 30 Stat. 1007, which repealed laws authorizing distribution of prize proceeds to captors, and the Act of May 29, 1920, ch. 214, 41 Stat. 654, which requires substitution of ''Treasurer of the United States or public depositary'' for ''assistant treasurer''.

## § 7664. Delivery of property on stipulation

(a) Prize property may be delivered to a claimant on stipulation, deposit, or other security, if—

(1) the claimant satisfies the court that the property has a peculiar and intrinsic value to him, independent of its market value;

(2) the court is satisfied that the rights and interests of the United States or of other claimants will not be prejudiced;

(3) an opportunity is given to the United States attorney and the naval prize commissioner or the naval special prize commissioner to be heard as to the appointment of appraisers; and

(4) a satisfactory appraisal is made.

(b) Money collected on a stipulation, or deposited instead of it, that does not represent costs shall be deposited with the Treasurer of the United States or a public depositary in the same manner as proceeds of a sale.

(Aug. 10, 1956, ch. 1041, 70A Stat. 479.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7664 ..... | 34 U.S.C. 1142. | R.S. 4626. |

34 U.S.C. 1142 and this section reflect the Act of March 3, 1899, ch. 413, § 13, 30 Stat. 1007, which repealed laws authorizing distribution of prize proceeds to captors, and the Act of May 29, 1920, ch. 214, § 1, 41 Stat. 654, which requires substitution of ''Treasurer of the United States or public depositary'' for ''assistant treasurer''.

## § 7665. Sale of prize

(a) The court shall order a sale of prize property if—

(1) the property has been condemned;

(2) the court finds, at any stage of the proceedings, that the property is perishable, liable to deteriorate, or liable to depreciate in value; or

(3) the cost of keeping the property is disproportionate to its value.

(b) The court may order a sale of the prize property if, after the return-day on the libel, all the parties in interest who have appeared in the cause agree to it.

(c) An appeal does not prevent the order of a sale under this section or the execution of such an order.

(Aug. 10, 1956, ch. 1041, 70A Stat. 479.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7665 ..... | 34 U.S.C. 1143. | R.S. 4627. |

In subsection (a) the word ''perishing'' is omitted as surplusage. The words ''in value'' are added after ''depreciate'' for clarity.

In subsection (c) the words ''An appeal does not prevent'' are substituted for the words ''no appeal shall operate to prevent''.

### § 7666. Mode of making sale

(a) If a sale of prize property is ordered by the court, the marshal shall—

(1) prepare and circulate full catalogues and schedules of the property to be sold and return a copy of each to the court;

(2) advertise the sale fully and conspicuously by posters and in newspapers ordered by the court;

(3) give notice to the naval prize commissioner at least five days before the sale; and

(4) keep the goods open for inspection for at least three days before the sale.

(b) An auctioneer of known skill in the business to which the sale pertains shall be employed by the Secretary of the Navy to make the sale. The auctioneer, or his agent, shall collect and deposit the gross proceeds of the sale. The auctioneer and his agent are responsible to the marshal for the conduct of the sale and the collection and deposit of the gross proceeds.

(Aug. 10, 1956, ch. 1041, 70A Stat. 479.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7666 ..... | 34 U.S.C. 1144. | R.S. 4628. |

The statement in subsection (b) of the responsibility of the auctioneer and agent to the marshal in the collection and deposit of proceeds is inserted to clarify the marshal's functions. It is derived from 34 U.S.C. 1139, and appears in § 7662 of this title.

### § 7667. Transfer of prize property to another district for sale

(a) In the case of any prize property ordered to be sold, if the court believes that it will be in the interest of all parties to have the property sold in a judicial district other than the one in which the proceedings are pending, the court may direct the marshal to transfer the property to the district selected by the court for the sale, and to insure it. In such a case the court shall give the marshal proper orders as to the time and manner of conducting the sale.

(b) When so ordered the marshal shall transfer the property and keep it safely. He is responsible for its sale in the same manner as if the property were in his own district and for the deposit of the gross proceeds with the Treasurer of the United States or public depositary nearest to the place of sale, subject to the order of the court for the district where the adjudication is pending.

(c) The necessary expenses of insuring, transferring, receiving, keeping, and selling the property are a charge upon it and upon the proceeds. Whenever any such expense is paid in advance by the marshal, any amount not repaid to him from the proceeds shall be allowed to him as in the case of expenses incurred in suits in which the United States is a party.

(d) If the Secretary of the Navy believes that it will be in the interest of all parties to have the property sold in a judicial district other than the one in which the proceedings are pending, he may, either by a general regulation or by a special direction in the cause, require the marshal to transfer the property from the district in which the judicial proceedings are pending to any other district for sale. In such a case proceedings shall be had as if the transfer had been made by order of the court.

(Aug. 10, 1956, ch. 1041, 70A Stat. 479.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7667 ..... | 34 U.S.C. 1145. | R.S. 4629. |

34 U.S.C. 1145 and this section reflect the Act of May 29, 1920, ch. 214, § 1, 41 Stat. 654, which requires substitution of ''Treasurer of the United States or public depositary'' for ''assistant treasurer''.

In subsection (b) the words ''He is responsible for its sale'' are substituted for the words ''It shall be the duty of the marshal to * * * sell the same'', because, as shown in § 7666 of this title, the marshal does not sell the property himself but supervises the auctioneer who conducts the sale.

### § 7668. Disposition of prize money

The net proceeds of all property condemned as prize shall be decreed to the United States and shall be ordered by the court to be paid into the Treasury.

(Aug. 10, 1956, ch. 1041, 70A Stat. 480.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7668 ..... | 34 U.S.C. 1151. | R.S. 4630; R.S. 4641. |

R.S. 4630 provided that in some circumstances the captors were to receive the net proceeds of prize property and in other circumstances they were to receive half and the United States was to receive the other half. The Act of March 3, 1899, ch. 413, § 13, 30 Stat. 1007, repealed ''all provisions of law authorizing the distribution among captors of the whole or any portion of the proceeds of vessels, or any property hereafter captured, condemned as prize''. Thus the only part of R.S. 4630 that remains in effect, as is indicated in 34 U.S.C. 1151, is that part which provides that proceeds shall be decreed to the United States. The section is so worded. R.S. 4641 stated how proceeds decreed to captors should be divided among them. These provisions were eliminated by the Act of March 3, 1899, supra. All that remains of R.S. 4641, as is indicated in 34 U.S.C. 1151, is the provision that proceeds decreed to the United

States shall be paid into the Treasury, and the section is worded accordingly.

### § 7669. Security for costs

The court may require any party to give security for costs at any stage of the cause and upon filing an appeal.

(Aug. 10, 1956, ch. 1041, 70A Stat. 480.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7669 ..... | 34 U.S.C. 1148. | R.S. 4638. |

The word ''filing'' is substituted for the word ''claiming''.

### § 7670. Costs and expenses a charge on prize property

(a) Costs and expenses allowed by the court incident to the bringing in, custody, preservation, insurance, and sale or other disposal of prize property are a charge upon the property and shall be paid from the proceeds thereof, unless the court decrees restitution free from such a charge.

(b) Charges for work and labor, materials furnished, or money paid must be supported by affidavit or vouchers.

(Aug. 10, 1956, ch. 1041, 70A Stat. 480.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7670(a) ..... | 34 U.S.C. 1149. | R.S. 4639. |
| 7670(b) ..... | 34 U.S.C. 1150 (2d sentence). | R.S. 4640 (2d sentence). |

### § 7671. Payment of costs and expenses from prize fund

(a) Payment may not be made from a prize fund except upon the order of the court. The court may, at any time, order the payment, from the deposit made with the Treasurer or public depositary in the cause, or costs or charges accrued and allowed.

(b) When the cause is finally disposed of, the court shall order the Treasurer or public depositary to pay the costs and charges allowed and unpaid. If the final decree is for restitution, or if there is no money subject to the order of the court in the cause, costs or charges allowed by the court and not paid by the claimants shall be paid out of the fund for paying the expenses of suits in which the United States is a party or is interested.

(Aug. 10, 1956, ch. 1041, 70A Stat. 480.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7671 ..... | 34 U.S.C. 1150 (less 2d sentence). | R.S. 4640 (less 2d sentence). |

In subsection (b) the words ''or orders'' after ''order'' are omitted as surplusage. The words ''a charge upon and'' are omitted as surplusage.

### § 7672. Recaptures: award of salvage, costs, and expenses

(a) If a vessel or other property that has been captured by a force hostile to the United States is recaptured, and the court believes that the property had not been condemned as prize by competent authority before its recapture, the court shall award an appropriate sum as salvage.

(b) If the recaptured property belonged to the United States, it shall be restored to the United States, and costs and expenses ordered to be paid by the court shall be paid from the Treasury.

(c) If the recaptured property belonged to any person residing within or under the protection of the United States, the court shall restore the property to its owner upon his claim and on payment of such sum as the court may award as salvage, costs, and expenses.

(d) If the recaptured property belonged to any person permanently residing within the territory and under the protection of any foreign government in amity with the United States, and, by the law or usage of that government, the property of a citizen of the United States would be restored under like circumstances of recapture, the court shall, upon the owner's claim, restore the property to him under such terms as the law or usage of that government would require of a citizen of the United States under like circumstances. If no such law or usage is known, the property shall be restored upon the payment of such salvage, costs, and expenses as the court orders.

(e) Amounts awarded as salvage under this section shall be paid to the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 481.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7672 ..... | 34 U.S.C. 1158 (less last sentence). | R.S. 4652 (less last sentence). |

In subsection (c) the words ''restore the property'' are substituted for the words ''adjudge to be restored.'' A similar substitution is made in subsection (d).

In subsection (d) the words ''foreign government'' are substituted for the words ''foreign prince, government, or state''.

Subsection (e) is derived from the next to the last sentence of R.S. 4652 which, when enacted, read:

''The whole amount awarded as salvage shall be decreed to the captors and no part to the United States, and shall be distributed as in the case of proceeds of property condemned as prize.''

The Act of March 3, 1899, ch. 413, § 13, 30 Stat. 1007, repealed all laws authorizing the distribution of prize money to captors. Accordingly, 34 U.S.C. 1158 states:

''The whole amount awarded as salvage shall be disposed of as in the case of proceeds of property condemned as prize.''

As shown in § 7668 of this title, the net proceeds of property condemned as prize must be decreed to the United States. Subsection (e) is phrased so as to state directly, instead of by reference, the fact that the amount awarded as salvage is paid to the government. While this is apparently inconsistent with R.S. 4652 as originally enacted, it is consistent with the intent expressed by Congress in the provision of the Act of March 3, 1899 (supra), which repealed provisions relating to the distribution of prize money and bounty to crews. This act, it is true, did not mention salvage; and salvage money is still occasionally awarded to crews of

naval vessels. However, such occasions are rare, and it is the general policy of the Department of the Navy not to claim salvage on behalf of its personnel. No case appears in which salvage derived from prize has been claimed for such personnel. Prize salvage is more closely related to prize money than it is to other salvage. The determination by Congress that captors should not share in the proceeds of prizes is, therefore, as in 34 U.S.C. 1158, carried through the revised section to salvage derived from prize. The word ''amounts'' is substituted for the words ''the whole amount''.

### § 7673. Allowance of expenses to marshals

The marshal shall be allowed his actual and necessary expenses for the custody, care, preservation, insurance, and sale or other disposal of the prize property, and for executing any order of the court in the prize cause. Charges of the marshal for expenses or disbursements shall be allowed only upon his oath that they have been necessarily incurred for the purpose stated.

(Aug. 10, 1956, ch. 1041, 70A Stat. 481.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7673 ..... | 34 U.S.C. 1153. | R.S. 4645. |

34 U.S.C. 1153 and the revised section reflect the Act of May 28, 1896, ch. 252, §6, 29 Stat. 179, which provided that marshals should receive annual salaries in lieu of the fees and emoluments previously allowed them.

### § 7674. Payment of witness fees

If the court allows fees to any witness in a prize cause, or fees for taking evidence out of the district in which the court sits, and there is no money subject to its order in the cause, the marshal shall pay the fees. He shall be repaid from any money deposited to the order of the court in the cause. Any amount not so repaid to the marshal shall be allowed him as witness fees paid by him in cases in which the United States is a party.

(Aug. 10, 1956, ch. 1041, 70A Stat. 481.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7674 ..... | 34 U.S.C. 1157. | R.S. 4651. |

### § 7675. Commissions of auctioneers

(a) The Secretary of the Navy may establish a scale of commissions to be paid to auctioneers employed to make sales of prize property. These commissions are in full satisfaction of expenses as well as services. The scale may in no case allow a commission in excess of—

(1) ½ of 1 percent on any amount exceeding $10,000 on the sale of a vessel; and

(2) 1 percent of any amount exceeding $10,000 on the sale of other prize property.

(b) If no such scale is established, auctioneers in prize causes shall be paid such compensation as the court considers just under the circumstances of each case.

(Aug. 10, 1956, ch. 1041, 70A Stat. 481.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7675 ..... | 34 U.S.C. 1156. | R.S. 4650. |

The word ''amount'' is substituted for the word ''sum''.

### § 7676. Compensation of prize commissioners and special prize commissioners

(a) Naval prize commissioners and naval special prize commissioners may not receive compensation for their services in prize causes other than that to which they are entitled as officers of the Navy.

(b) Prize commissioners and special prize commissioners, except naval prize commissioners and naval special prize commissioners, are entitled to just and suitable compensation for their services in prize causes. The amount of compensation in each cause shall be determined by the court and allowed as costs.

(c) Annually, on the anniversary of his appointment, each prize commissioner and special prize commissioner, except a naval prize commissioner or a naval special prize commissioner, shall submit to the Attorney General an account of all amounts received for his services in prize causes within the previous year. Of the amounts reported, each such commissioner may retain not more than $3,000, which is in full satisfaction for all his services in prize causes for that year. He shall pay any excess over that amount into the Treasury.

(Aug. 10, 1956, ch. 1041, 70A Stat. 482.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7676(a) ..... | 34 U.S.C. 1137 (as applicable to compensation of naval prize commissioner). | R.S. 4621 (as applicable to compensation of naval prize commissioner); Nov. 14, 1945, ch. 472, §2, 59 Stat. 581. |
| | 34 U.S.C. 1163 (as applicable to compensation of naval special prize commissioner). | Aug. 18, 1942, ch. 553, §5 (as applicable to compensation of naval special prize commissioner), 56 Stat. 746. |
| 7676(b) ..... | 34 U.S.C. 1154. | R.S. 4646. |
| 7676(c) ..... | 34 U.S.C. 1155. | R.S. 4647. |

In subsection (c) the words ''on the anniversary of his appointment'' are inserted for clarity, as ''year'' in the context of this section means a year of service as prize commissioner. The words ''and shall be credited to the fund for paying naval pensions'' are omitted because the Act of June 26, 1934, ch. 756, §9, 48 Stat. 1229, abolished the naval pension fund and provided that moneys previously required to be paid into it should be deposited in the Treasury as miscellaneous receipts. The words ''as miscellaneous receipts'' are omitted as surplusage. The word ''amounts'' is substituted for the word ''sums''.

34 U.S.C. 1154 and 1155 and this section reflect the Act of May 28, 1896, ch. 252, §6, 29 Stat. 179, 180, which provided that United States attorneys should receive fixed annual salaries in lieu of the fees and emoluments previously authorized.

### § 7677. Accounts of clerks of district courts

(a) The clerk of each district court, for the purpose of the final decree in each prize cause, shall keep account of—

(1) the amount deposited with the Treasurer or public depositary, subject to the order of the court in the cause; and

(2) the amounts ordered to be paid therefrom as costs and charges.

(b) The clerk shall draw the orders of the court for the payment of costs and allowances and for the disposition of the residue of the prize fund in each cause.

(c) The clerk shall send to the Secretary of the Treasury and the Secretary of the Navy—

(1) copies of final decrees in prize causes; and

(2) a semi-annual statement of the amounts allowed by the court, and ordered to be paid, within the preceding six months to the prize commissioners and special prize commissioners for their services.

(Aug. 10, 1956, ch. 1041, 70A Stat. 482.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7677 ..... | 34 U.S.C. 1152. | R.S. 4644. |

34 U.S.C. 1152 and this section reflect modifications of R.S. 4644 effected by—

(1) Act of May 28, 1896, ch. 252, §6, 29 Stat. 179, which provided for fixed annual salaries for United States attorneys and marshals;

(2) Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, which repealed all laws authorizing distribution of prize proceeds to captors;

(3) Act of February 26, 1919, ch. 49, §1, 40 Stat. 1182, which provided that clerks of United States district courts should receive fixed annual salaries; and

(4) Act of May 29, 1920, ch. 214, 41 Stat. 654, which abolished the offices of assistant treasurers and distributed their functions.

## § 7678. Interfering with delivery, custody, or sale of prize property

Whoever willfully does, or aids or advises in the doing of, any act relating to the bringing in, custody, preservation, sale, or other disposition of any property captured as prize, or relating to any documents or papers connected with the property or to any deposition or other document or paper connected with the proceedings, with intent to defraud, delay, or injure the United States or any claimant of that property, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(Aug. 10, 1956, ch. 1041, 70A Stat. 482.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7678 ..... | 34 U.S.C. 1167. | Mar. 4, 1909, ch. 321, §38, 35 Stat. 1096. |

The words ''captor or'' between ''any'' and ''claimant'' are omitted because the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, repealed all laws authorizing the distribution of prize proceeds to captors. These words were apparently carried over inadvertently to §38 of the 1909 Act from the source of that section, namely R.S. 5441.

The section is worded in the style of Title 18, U.S. Code.

## § 7679. Powers of district court over prize property notwithstanding appeal

Notwithstanding an appeal, the district court may make and execute all necessary orders for the custody and disposal of prize property.

(Aug. 10, 1956, ch. 1041, 70A Stat. 483.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7679 ..... | 34 U.S.C. 1147. | R.S. 565; R.S. 4637. |

34 U.S.C. 1147 and this section reflect—

(1) Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, which repealed all laws authorizing distribution of prize proceeds to captors;

(2) Acts of March 3, 1911, ch. 231, §128, 36 Stat. 1133, and February 13, 1925, ch. 229, §1, 43 Stat. 938, which defined the appellate jurisdiction of the United States circuit courts, and provided that the Supreme Court should not directly review district court decisions except in specified cases, not including prize cases; and

(3) Act of June 25, 1948, ch. 646, 62 Stat. 869, which repealed the Acts of February 13, 1925, and March 3, 1911, supra, but enacted similar provisions and changed the name of United States Circuit Courts of Appeals to United States Courts of Appeals for the several circuits.

Reference to the court is omitted from 34 U.S.C. 1147 and from the revised section in view of the 1948 Act.

## § 7680. Appeals and amendments in prize causes

(a) A United States Court of Appeals may allow an appeal in a prize cause if it appears that a notice of appeal was filed with the clerk of the district court within thirty days after the final decree in that cause.

(b) A United States Court of Appeals, if in its opinion justice requires it, may allow amendments in form or substance of any appeal in a prize cause.

(Aug. 10, 1956, ch. 1041, 70A Stat. 483.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7680 ..... | 34 U.S.C. 1146. | R.S. 1006; R.S. 4636. |

34 U.S.C. 1146 and this section reflect—

(1) Acts of March 3, 1911, ch. 231, §128, 36 Stat. 1133, and February 13, 1925, ch. 229, §1, 43 Stat. 938, which defined the appellate jurisdiction of the United States Circuit Courts of Appeals; and

(2) Act of June 25, 1948, ch. 646, 62 Stat. 869, which repealed the 1911 and 1925 Acts, but enacted similar provisions and changed the name of the circuit courts to United States Courts of Appeals for the several circuits.

The words ''or of intention to appeal'' are omitted as surplusage. Formerly ''notices of appeal'' were filed in some courts and ''notices of intention to appeal'' were filed in others. The difference was in terminology, not in substance. These notices are now known as ''notices of appeal''. The words ''next'' and ''the rendition of'' are omitted as surplusage.

## § 7681. Reciprocal privileges to cobelligerent

(a) A cobelligerent of the United States that consents to the exercise of jurisdiction conferred by section 7652(a) of this title with respect to any prize of the United States brought into the territorial waters of the cobelligerent or appropriated for the use of the United States within

those territorial waters shall be given, upon proclamation by the President of the United States, like privileges with respect to any prize captured under the authority of that cobelligerent and brought into the territorial waters of the United States or appropriated for the use of the cobelligerent within the territorial waters of the United States.

(b) Reciprocal recognition shall be given to the jurisdiction acquired by courts of a cobelligerent under this section and full faith and credit shall be given to all proceedings had or judgments rendered in the exercise of that jurisdiction.

(Aug. 10, 1956, ch. 1041, 70A Stat. 483.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7681 ..... | 34 U.S.C. 1165. | Aug. 18, 1942, ch. 553, § 7, 56 Stat. 747. |

The words ''taking or'' before ''appropriation'' and the words ''taken or'' before ''appropriated'' are omitted as surplusage.

RECIPROCAL PRIVILEGES

The Governments listed below are accorded like privileges with respect to prizes captured under authority of the said Governments and brought into the territorial waters of the United States or taken or appropriated in the territorial waters of the United States for the use of the said Governments, namely: Australia, Proc. No. 2617, Aug. 16, 1944, 9 F.R. 9969; Canada, Proc. No. 2594, Sept. 27, 1943, 8 F.R. 13217; India, Proc. No. 2601, Dec. 6, 1943, 8 F.R. 16351; New Zealand, Proc. No. 2582, Apr. 2, 1943, 8 F.R. 4275; United Kingdom, Proc. No. 2575, Feb. 2, 1944, 8 F.R. 1429.

## CHAPTER 657—STAY OF JUDICIAL PROCEEDINGS

Sec.
7721. Scope of chapter.
7722. Stay of suit.
7723. Stay of proceedings for preserving evidence after stay of suit.
7724. Stay of proceedings for taking evidence before suit is filed.
7725. Stay extended or shortened.
7726. Reconsideration of stay.
7727. Duration of stay.
7728. Restricted certificate.
7729. Investigation before issue of certificate.
7730. Evidence admissible when witness is not available.

### § 7721. Scope of chapter

(a) This chapter applies to any suit against the United States under the Act of March 3, 1925 (commonly referred to as the ''Public Vessels Act'') (46 U.S.C. App. 781–790) for—

(1) damage caused by a vessel in the naval service; or

(2) compensation for towage or salvage services, including contract salvage, rendered to a vessel in the naval service.

(b) In this chapter, the term ''vessel in the naval service'' means—

(1) any vessel of the Navy, manned by the Navy, or chartered on bareboat charter to the Navy; or

(2) when the Coast Guard is operating as a service in the Navy, any vessel of the Coast Guard, manned by the Coast Guard, or chartered on bareboat charter to the Coast Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 483; Pub. L. 96–513, title V, § 513(43), Dec. 12, 1980, 94 Stat. 2935; Pub. L. 100–26, § 7(k)(10), Apr. 21, 1987, 101 Stat. 284; Pub. L. 103–35, title II, § 201(c)(11), May 31, 1993, 107 Stat. 98.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7721(a) ..... | 46 U.S.C. 791 (2d sentence). | July 3, 1944, ch. 399, § 1 (2d sentence), 58 Stat. 723. |
| 7721(b) ..... | 46 U.S.C. 793. | July 3, 1944, ch. 399, § 3, 58 Stat. 724. |

In subsection (a) the words ''wherein a claim is made'' are omitted as surplusage. The words ''vessel in the naval service'' are substituted for the words ''vessel in the Navy, or in the naval service'' for brevity. No change in meaning results, since the term used in subsection (a) is defined in subsection (b).

In subsection (b) the words ''service in'' are substituted for the words ''part of'' to conform to the terminology used in 14 U.S.C. 3.

REFERENCES IN TEXT

The Public Vessels Act, referred to in subsec. (a), is act Mar. 3, 1925, ch. 428, 43 Stat. 1112, as amended, which is classified generally to chapter 22 (§ 781 et seq.) of Title 46, Appendix, Shipping. For complete classification of this Act to the Code, see Short Title note set out under section 781 of Title 46, Appendix, and Tables.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–35 substituted ''(46 U.S.C. App. 781–790)'' for ''(46 U.S.C. 781–790)''.

1987—Subsec. (b). Pub. L. 100–26 inserted '', the term'' after ''In this chapter''.

1980—Subsec. (a). Pub. L. 96–513 substituted ''the Act of March 3, 1925 (commonly referred to as the 'Public Vessels Act') (46 U.S.C. 781–790)'' for ''sections 781–790 of title 46''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### § 7722. Stay of suit

(a) Whenever in time of war the Secretary of the Navy certifies to a court, or to a judge of a court, in which a suit described in section 7721 of this title is pending, that the prosecution of the suit would tend to endanger the security of naval operations in the war, or would tend to interfere with those operations, all further proceedings in the suit shall be stayed.

(b) A stay under this section does not suspend the issue of process to take or preserve evidence to be used in the trial or prevent the completion of action under similar process issued before the stay.

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

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7722(a) ..... | 46 U.S.C. 791 (1st sentence, less applicability to duration of stay). | July 3, 1944, ch. 399, § 1 (1st sentence, less applicability to duration of stay), 58 Stat. 723. |
| 7722(b) ..... | 46 U.S.C. 791 (less 1st and 2d sentences and less proviso). | July 3, 1944, ch. 399, § 1 (less 1st and 2d sentences and less proviso), 58 Stat. 723. |

In subsection (a) the word ''forthwith'' is omitted as surplusage.

In subsection (b) the words ''of proceedings in pending suits as provided'' are omitted as surplusage. The words ''does not suspend'' are substituted for the words ''shall not operate to suspend''. The words ''of the issues'' and ''the authority of'' are omitted as surplusage. The words ''issued before the stay'' are substituted for the words ''already issued at the time of such stay of suit''.

### § 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). | July 3, 1944, ch. 399, § 2 (less applicability to duration of stay), 58 Stat. 724. |
| | 46 U.S.C. 796. | 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. The words ''his designee'' are substituted for the words ''some official designated by him'' for brevity.

In subsection (c) the words ''that ordered the stay'' are substituted for the words ''in which said stay is pending or the court in which the proceeding stayed was instituted'' for brevity and clarity.

### § 7727. Duration of stay

A stay of proceedings under this chapter remains in effect for the period specified in the certificate upon which it was based unless the Secretary of the Navy issues a new certificate under section 7725 or 7726 of this title changing the termination date. However, a stay under this chapter may not remain in force longer than six months after the cessation of hostilities.

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

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7727 ..... | 46 U.S.C. 791 (1st sentence as applicable to duration of stay, and proviso as applicable to duration of stay). | July 3, 1944, ch. 399, § 1 (1st sentence as applicable to duration of stay, and proviso as applicable to duration of stay), 58 Stat. 723. |
| | 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

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 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

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 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 statement 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

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 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.

Sec.
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

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 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

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 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 Columbia, 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.)

PRIOR PROVISIONS

A prior section 7862 was renumbered section 7863 of this title.

AMENDMENTS

1982—Pub. L. 97–295 substituted ''naval'' for ''public'' in section catchline.

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7861 ..... | 31:44 (1st sentence). | June 10, 1921, ch. 18, § 304 (1st par. 1st sentence), 42 Stat. 24. |
| | 31:104. | 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 of section 1 of the Act of March 29, 1894 (ch. 49, 28 Stat. 47), and 10:5061. The words ''the account of the paymaster'' are substituted for ''him'' for clarity. The words ''such portion of the'', ''on their books'', and ''of a public vessel'' are omitted as surplus. The words ''free of'' are substituted for ''fully exonerated by such credit from all'' to eliminate unnecessary words. The words ''so proved to have been captured or lost'' are omitted as surplus.

### § 7863. Disposal of public stores by order of commanding officer

When settling an account of a disbursing official, the Comptroller General shall allow disposal of public stores the disbursing official made under an order of a commanding officer when presented with satisfactory evidence that the order was made and that the stores were disposed of as the order provided. The commanding officer is accountable for the disposal.

(Added Pub. L. 97–258, § 2(b)(12)(B), Sept. 13, 1982, 96 Stat. 1057, § 7862; renumbered § 7863, Pub. L. 99–433, title V, § 514(b)(1), Oct. 1, 1986, 100 Stat. 1054; amended Pub. L. 104–106, div. A, title IX, § 913(c)(3)(A), (B)(i), Feb. 10, 1996, 110 Stat. 411; Pub. L. 104–201, div. A, title X, § 1074(a)(20), Sept. 23, 1996, 110 Stat. 2660.)

HISTORICAL AND REVISION NOTES

| *Revised section* | *Source (U.S. Code)* | *Source (Statutes at Large)* |
|---|---|---|
| 7862 ..... | 31:44 (1st sentence). | June 10, 1921, ch. 18, § 304 (1st par. 1st sentence), 42 Stat. 24. |
| | 31:106. | R.S. § 285. |

The words ''disbursing official'' are substituted for ''disbursing officer'' for consistency with other titles of the United States Code. The words ''Comptroller General'' are substituted for ''General Accounting Office'' for consistency. The words ''of the Navy'' are omitted because of the restatement. The words ''when presented with'' are substituted for ''upon'' for clarity. The words ''by whose order such disbursement or disposal was made'' are omitted as surplus.

AMENDMENTS

1996—Pub. L. 104–201 inserted ''were'' after ''the stores'' in first sentence.

Pub. L. 104–106, § 913(c)(3)(B)(i), substituted ''Disposal of public stores'' for ''Disbursements'' in section catchline.

Pub. L. 104–106, § 913(c)(3)(A), in first sentence, struck out ''disbursements of public moneys or'' after ''Comptroller General shall allow'' and ''the money was paid or'' after ''the order was made and that'' and, in second sentence, struck out ''disbursement or'' after ''commanding officer is accountable for the''.

## CHAPTER 663—NAMES AND INSIGNIA

Sec.
7881. Unauthorized use of Marine Corps insignia.

### § 7881. Unauthorized use of Marine Corps insignia

(a) The seal, emblem, and initials of the United States Marine Corps shall be deemed to be insignia of the United States.

(b) No person may, except with the written permission of the Secretary of the Navy, use or imitate the seal, emblem, name, or initials of the United States Marine Corps in connection with any promotion, goods, services, or commercial activity in a manner reasonably tending to suggest that such use is approved, endorsed, or authorized by the Marine Corps or any other component of the Department of Defense.

(c) Whenever it appears to the Attorney General of the United States that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (b), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

(Added Pub. L. 98–525, title XV, § 1532(a)(1), Oct. 19, 1984, 98 Stat. 2631.)

SAVINGS PROVISION

Section 1532(b) of Pub. L. 98–525 provided that: ''The amendments made by subsection (a) [enacting this chapter] shall not affect rights that vested before the date of the enactment of this Act [Oct. 19, 1984].''

## CHAPTER 665—NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM

Sec.
7901. National Oceanographic Partnership Program.
7902. National Ocean Research Leadership Council.
7903. Ocean Research Advisory Panel.

### § 7901. National Oceanographic Partnership Program

(a) ESTABLISHMENT.—The Secretary of the Navy shall establish a program to be known as the ''National Oceanographic Partnership Program''.

(b) PURPOSES.—The purposes of the program are as follows:

(1) To promote the national goals of assuring national security, advancing economic development, protecting quality of life, and strengthening science education and communication through improved knowledge of the ocean.

(2) To coordinate and strengthen oceanographic efforts in support of those goals by—

(A) identifying and carrying out partnerships among Federal agencies, academia, industry, and other members of the oceanographic scientific community in the areas of data, resources, education, and communication; and

(B) reporting annually to Congress on the program.

(Added Pub. L. 104–201, div. A, title II, § 282(a)(1), Sept. 23, 1996, 110 Stat. 2470.)

CONGRESSIONAL FINDINGS

Section 281 of Pub. L. 104–201 provided that: ''Congress finds the following:

''(1) The oceans and coastal areas of the United States are among the Nation's most valuable natural resources, making substantial contributions to economic growth, quality of life, and national security.

''(2) Oceans drive global and regional climate. Hence, they contain information affecting agriculture, fishing, and the prediction of severe weather.

''(3) Understanding of the oceans through basic and applied research is essential for using the oceans wisely and protecting their limited resources. Therefore, the United States should maintain its world leadership in oceanography as one key to its competitive future.

''(4) Ocean research and education activities take place within Federal agencies, academic institutions, and industry. These entities often have similar requirements for research facilities, data, and other resources (such as oceanographic research vessels).

''(5) The need exists for a formal mechanism to coordinate existing partnerships and establish new partnerships for the sharing of resources, intellectual talent, and facilities in the ocean sciences and education, so that optimal use can be made of this most important natural resource for the well-being of all Americans.''

### § 7902. National Ocean Research Leadership Council

(a) COUNCIL.—There is a National Ocean Research Leadership Council (hereinafter in this chapter referred to as the ''Council'').

(b) MEMBERSHIP.—The Council is composed of the following members:

(1) The Secretary of the Navy.

(2) The Administrator of the National Oceanic and Atmospheric Administration.

(3) The Director of the National Science Foundation.

(4) The Administrator of the National Aeronautics and Space Administration.

(5) The Deputy Secretary of Energy.

(6) The Administrator of the Environmental Protection Agency.

(7) The Commandant of the Coast Guard.

(8) The Director of the United States Geological Survey of the Department of the Interior.

(9) The Director of the Defense Advanced Research Projects Agency.

(10) The Director of the Minerals Management Service of the Department of the Interior.

(11) The Director of the Office of Science and Technology.

(12) The Director of the Office of Management and Budget.

(13) The Under Secretary for Science and Technology of the Department of Homeland Security.

(14) Other Federal officials the Council considers appropriate.

(c) CHAIRMAN AND VICE CHAIRMAN.—(1) Except as provided in paragraph (2), the chairman and vice chairman of the Council shall be appointed every two years by a selection committee of the Council composed of, at a minimum, the Secretary of the Navy, the Administrator of the National Oceanic and Atmospheric Administration, and the Director of the National Science Foundation. The term of office of the chairman and vice chairman shall be two years. A person who has previously served as chairman or vice chairman may be reappointed.

(2) The first chairman of the Council shall be the Secretary of the Navy. The first vice chairman of the Council shall be the Administrator of the National Oceanic and Atmospheric Administration.

(d) RESPONSIBILITIES.—The Council shall have the following responsibilities:

(1) To prescribe policies and procedures to implement the National Oceanographic Partnership Program.

(2) To review, select, and identify and allocate funds for partnership projects for implementation under the program, based on the following criteria:

(A) Whether the project addresses critical research objectives or operational goals, such as data accessibility and quality assurance, sharing of resources, education, or communication.

(B) Whether the project has, or is designed to have, broad participation within the oceanographic community.

(C) Whether the partners have a long-term commitment to the objectives of the project.

(D) Whether the resources supporting the project are shared among the partners.

(E) Whether the project has been subjected to adequate peer review.

(3) To assess whether there is a need for a facility (or facilities) to provide national centralization of oceanographic data, and to establish such a facility or facilities if determined necessary. In conducting the assessment, the Council shall review, at a minimum, the following:

(A) The need for a national oceanographic data center.

(B) The need for a national coastal data center.

(C) Accessibility by potential users of such centers.

(D) Preexisting facilities and expertise.

(e) ANNUAL REPORT.—Not later than March 1 of each year, the Council shall submit to Congress a report on the National Oceanographic Partnership Program. The report shall contain the following:

(1) A description of activities of the program carried out during the fiscal year before the fiscal year in which the report is prepared, together with a list of the members of the Ocean Research Advisory Panel and any working groups in existence during the fiscal year covered.

(2) A general outline of the activities planned for the program during the fiscal year in which the report is prepared.

(3) A summary of projects continued from the fiscal year before the fiscal year in which the report is prepared and projects expected to be started during the fiscal year in which the report is prepared and during the following fiscal year.

(4) A description of the involvement of the program with Federal interagency coordinating entities.

(5) The amounts requested, in the budget submitted to Congress pursuant to section 1105(a) of title 31 for the fiscal year following the fiscal year in which the report is prepared, for the programs, projects, and activities of the program and the estimated expenditures under such programs, projects, and activities during such following fiscal year.

(f) PARTNERSHIP PROGRAM OFFICE.—(1) The Council shall establish a partnership program office for the National Oceanographic Partnership Program. The Council shall use competitive procedures in selecting an operator for the partnership program office.

(2) The Council shall assign the following duties to the partnership program office:

(A) To establish and oversee working groups to propose partnership projects to the Council and advise the Council on such projects.

(B) To manage the process for proposing partnership projects to the Council, including managing peer review of such projects.

(C) To submit to the Council an annual report on the status of all partnership projects and activities of the office.

(D) Any additional duties for the administration of the National Oceanographic Partnership Program that the Council considers appropriate.

(3) The Council shall supervise the performance of duties by the partnership program office.

(g) CONTRACT AND GRANT AUTHORITY.—The Council may authorize one or more of the departments or agencies represented on the Council to enter into contracts and make grants, using funds appropriated pursuant to an authorization of appropriations for the National Oceanographic Partnership Program, for the purpose of implementing the program and carrying out the responsibilities of the Council.

(h) ESTABLISHMENT AND FORMS OF PARTNERSHIP PROJECTS.—(1) A partnership project under the National Oceanographic Partnership Program may be established by any instrument that the Council considers appropriate, including a memorandum of understanding, a cooperative research and development agreement, and any similar instrument.

(2) Projects under the program may include demonstration projects.

(Added Pub. L. 104–201, div. A, title II, § 282(a)(1), Sept. 23, 1996, 110 Stat. 2470; amended Pub. L. 105–85, div. A, title II, § 241(a), title X, § 1073(a)(64), Nov. 18, 1997, 111 Stat. 1665, 1903; Pub. L. 106–65, div. A, title X, § 1066(a)(30), Oct. 5, 1999, 113 Stat. 772; Pub. L. 107–296, title XVII, § 1713, Nov. 25, 2002, 116 Stat. 2320.)

AMENDMENTS

2002—Subsec. (b)(13), (14). Pub. L. 107–296 added pars. (13) and (14).

1999—Subsec. (e)(5). Pub. L. 106–65 struck out ", United States Code," after "title 31".

1997—Subsec. (b)(8). Pub. L. 105–85, § 1073(a)(64), inserted "United States" before "Geological Survey".

Subsec. (b)(11) to (13). Pub. L. 105–85, § 241(a)(1), redesignated pars. (12) and (13) as (11) and (12), respectively, and struck out former par. (11) which read as follows: "The President of the National Academy of Sciences, the President of the National Academy of Engineering, and the President of the Institute of Medicine."

Subsec. (b)(14) to (17). Pub. L. 105–85, § 241(a)(1)(A), struck out pars. (14) to (17) which read as follows:

"(14) One member appointed by the chairman from among individuals who will represent the views of ocean industries.

"(15) One member appointed by the chairman from among individuals who will represent the views of State governments.

"(16) One member appointed by the chairman from among individuals who will represent the views of academia.

"(17) One member appointed by the chairman from among individuals who will represent such other views as the chairman considers appropriate."

Subsecs. (d) to (i). Pub. L. 105–85, § 241(a)(2), (3), redesignated subsecs. (e) to (i) as (d) to (h), respectively, and struck out former subsec. (d) which read as follows:

"(d) TERM OF OFFICE.—The term of office of a member of the Council appointed under paragraph (14), (15), (16), or (17) of subsection (b) shall be two years, except that any person appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term."

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 241(d) of Pub. L. 105–85 provided that: "The amendments made by subsections (a) and (b) [amending

this section, section 7903 of this title, and provisions set out as a note under section 7903 of this title] shall be effective as of September 23, 1996, as if included in section 282 of Public Law 104–201.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

INITIAL APPOINTMENTS OF COUNCIL MEMBERS

Section 282(b) of Pub. L. 104–201 directed Secretary of the Navy to make appointments required by subsec. (b) of this section, not later than Dec. 1, 1996, prior to repeal by Pub. L. 105–85, div. A, title II, § 241(c)(1), Nov. 18, 1997, 111 Stat. 1666.

FIRST ANNUAL REPORT OF COUNCIL

Section 282(c), formerly § 282(d), of Pub. L. 104–201, as renumbered by Pub. L. 105–85, div. A, title II, § 241(c)(2), Nov. 18, 1997, 111 Stat. 1666, provided that: ''The first annual report required by section 7902(f) of title 10, United States Code, as added by subsection (a)(1), shall be submitted to Congress not later than March 1, 1997. The first report shall include, in addition to the information required by such section, information about the terms of office, procedures, and responsibilities of the Ocean Research Advisory Panel established by the Council.''

### § 7903. Ocean Research Advisory Panel

(a) ESTABLISHMENT.—The Council shall establish an Ocean Research Advisory Panel consisting of not less than 10 and not more than 18 members appointed by the chairman, including the following:

(1) One member who will represent the National Academy of Sciences.

(2) One member who will represent the National Academy of Engineering.

(3) One member who will represent the Institute of Medicine.

(4) Members selected from among individuals who will represent the views of ocean industries, State governments, academia, and such other views as the chairman considers appropriate.

(5) Members selected from among individuals eminent in the fields of marine science or marine policy, or related fields.

(b) RESPONSIBILITIES.—The Council shall assign the following responsibilities to the Advisory Panel:

(1) To advise the Council on policies and procedures to implement the National Oceanographic Partnership Program.

(2) To advise the Council on selection of partnership projects and allocation of funds for partnership projects for implementation under the program.

(3) To advise the Council on matters relating to national oceanographic data requirements.

(4) Any additional responsibilities that the Council considers appropriate.

(c) FUNDING.—The Secretary of the Navy annually shall make funds available to support the activities of the Advisory Panel.

(Added Pub. L. 104–201, div. A, title II, § 282(a)(1), Sept. 23, 1996, 110 Stat. 2473; amended Pub. L. 105–85, div. A, title II, § 241(b)(1), Nov. 18, 1997, 111 Stat. 1666.)

AMENDMENTS

1997—Pub. L. 105–85 amended text generally. Prior to amendment, text read as follows:

''(a) ESTABLISHMENT.—The Council shall establish an Ocean Research Advisory Panel consisting of not less than 10 and not more than 18 members appointed by the Council from among persons eminent in the fields of marine science or marine policy, or related fields, and who are representative, at a minimum, of the interests of government, academia, and industry.

''(b) RESPONSIBILITIES.—The Council shall assign to the Advisory Panel responsibilities that the Council considers appropriate.''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective as of Sept. 23, 1996, as if included in section 282 of Pub. L. 104–201, see section 241(d) of Pub. L. 105–85, set out as a note under section 7902 of this title.

TERMINATION OF ADVISORY PANELS

Advisory panels established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a panel established by Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

INITIAL APPOINTMENTS OF PANEL MEMBERS

Section 282(b), formerly § 282(c), of Pub. L. 104–201, as renumbered and amended by Pub. L. 105–85, div. A, title II, § 241(b)(2), (c)(2), Nov. 18, 1997, 111 Stat. 1666, provided that: ''The National Ocean Research Leadership Council established by section 7902 of title 10, United States Code, as added by subsection (a)(1), shall make the appointments required by section 7903 of such title not later than January 1, 1998.''

## Subtitle D—Air Force

### PART I—ORGANIZATION


| Chap. | | Sec. |
|---|---|---|
| **801.** | **Definitions. [No present sections.]** | |
| **803.** | **Department of the Air Force** | **8011** |
| **805.** | **The Air Staff** | **8031** |
| **807.** | **The Air Force** | **8061** |


### PART II—PERSONNEL


| | | |
|---|---|---|
| **831.** | **Strength** | **8201** |
| **833.** | **Enlistments** | **8251** |
| **835.** | **Appointments in the Regular Air Force** | **8281** |
| **[837.** | **Repealed.]** | |
| **839.** | **Temporary Appointments** | **8441** |
| **841.** | **Active Duty** | **8491** |
| **843.** | **Special Appointments, Assignments, Details, and Duties** | **8531** |
| **845.** | **Rank and Command** | **8571** |
| **[847.** | **Repealed.]** | |
| **849.** | **Miscellaneous Prohibitions and Penalties** | **8631** |
| **[851.** | **Repealed.]** | |
| **853.** | **Miscellaneous Rights and Benefits** | **8681** |
| **855.** | **Hospitalization** | **8721** |