

Sec.

SUBCHAPTER V—NAVIGABLE WATERS OF MARYLAND

465. Authority to dredge; riparian rights of United States.

SUBCHAPTER VI—WATER POLLUTION CONTROL

466 to 466g. Transferred.

466g-1. Controversies involving construction or application of interstate compacts and pollution of waters.

466h to 466n. Transferred or Repealed.

SUBCHAPTER VII—DAM INSPECTION PROGRAM

467. Definitions.

467a. Inspection of dams.

467b. Investigation reports to Governors.

467c. Determination of danger to human life and property.

467d. National dam inventory.

467e. Interagency Committee on Dam Safety.

467f. National dam safety program.

467f-1. Lock and dam security.

467f-2. Rehabilitation of high hazard potential dams.

467g. Research.

467g-1. Dam safety training.

467g-2. Public awareness and outreach for dam safety.

467h. Reports.

467i. Statutory construction.

467j. Authorization of appropriations.

467k to 467m. Repealed.

467n. Recovery of dam modification costs required for safety purposes.

SUBCHAPTER I—IN GENERAL

§ 400. Continuing authority programs**(1) Definition of continuing authority program project**

In this section, the term “continuing authority program” means 1 of the following authorities:

(A) Section 701s of this title.

(B) Section 426i of this title.

(C) Section 2330 of this title.

(D) Section 2309a of this title.

(E) Section 577 of this title.

(F) Section 426g of this title.

(G) Section 701r of this title.

(H) Section 103 of the River and Harbor Act of 1962 (Public Law 87-874; 76 Stat. 1178).

(I) Section 2326(e) of this title.

(J) Section 701b-8a of this title.

(K) Section 610(a) of this title.

(2) Prioritization

Not later than 1 year after June 10, 2014, the Secretary shall publish in the Federal Register and on a publicly available website, the criteria the Secretary uses for prioritizing annual funding for continuing authority program projects.

(3) Annual report

Not later than 1 year after June 10, 2014, and each year thereafter, the Secretary shall publish in the Federal Register and on a publicly available website, a report on the status of each continuing authority program, which, at a minimum, shall include—

(A) the name and a short description of each active continuing authority program project;

(B) the cost estimate to complete each active project; and

(C) the funding available in that fiscal year for each continuing authority program.

(4) Congressional notification

On publication in the Federal Register under paragraphs (2) and (3), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a copy of all information published under those paragraphs.

(Pub. L. 113-121, title I, §1030(a), June 10, 2014, 128 Stat. 1231.)

Editorial Notes

REFERENCES IN TEXT

Section 103 of the River and Harbor Act of 1962, referred to in par. (1)(H), is section 103 of Pub. L. 87-874, title I, Oct. 23, 1962, 76 Stat. 1178. Section 103(a)(1)-(3) of Pub. L. 87-874 amended section 426e of this title. Section 103(a)(4) of Pub. L. 87-874 amended sections 426f and 426g of this title. Section 103(b) of Pub. L. 87-874 is set out as a note under section 426 of this title. Section 103(c) of Pub. L. 87-874 is not classified to the Code.

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

§ 401. Construction of bridges, causeways, dams or dikes generally; exemptions

It shall not be lawful to construct or commence the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained and until the plans for (1) the bridge or causeway shall have been submitted to and approved by the Secretary of the department in which the Coast Guard is operating, or (2) the dam or dike shall have been submitted to and approved by the Chief of Engineers and Secretary of the Army. However, such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the Secretary of the department in which the Coast Guard is operating or by the Chief of Engineers and Secretary of the Army before construction is commenced. When plans for any bridge or other structure have been approved by the Secretary of the department in which the Coast Guard is operating or by the Chief of Engineers and Secretary of the Army, it shall not be lawful to deviate from such plans either before or after completion of the structure unless modification of said plans has previously been submitted to and received the approval of the Secretary of the department in which the Coast Guard is operating or the Chief of Engineers and the Secretary of the Army. The approval required by this section of the location and plans or any modification of plans of any bridge or causeway does not apply to any bridge or causeway over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use

in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

(Mar. 3, 1899, ch. 425, § 9, 30 Stat. 1151; Pub. L. 97-322, title I, § 107(b), Oct. 15, 1982, 96 Stat. 1582; Pub. L. 97-449, § 2(f), Jan. 12, 1983, 96 Stat. 2440; Pub. L. 114-120, title III, § 306(b)(1)(A), Feb. 8, 2016, 130 Stat. 55.)

Editorial Notes

CODIFICATION

Section is from act Mar. 3, 1899, popularly known as the “Rivers and Harbors Appropriation Act of 1899”, and together with section 403 of this title effectively superseded act Sept. 19, 1890, ch. 907, § 7, 26 Stat. 454, as amended generally by act July 13, 1892, ch. 158, § 3, 27 Stat. 88, which prohibited the erection of obstructions to navigation, and prohibited the erection of bridges over navigable waters under State legislation before the approval of the plans by the Secretary of War, and prohibited the alteration of channels unless authorized by that Secretary.

AMENDMENTS

2016—Pub. L. 114-120 substituted “Secretary of the department in which the Coast Guard is operating” for “Secretary of Transportation” wherever appearing.

1983—Pub. L. 97-449 amended section generally to reflect transfer of certain functions, powers, and duties of Secretary of the Army under this section to Secretary of Transportation. See Transfer of Functions note below.

1982—Pub. L. 97-322 inserted sentence at end relating to exemption.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army [formerly War] and other offices and officers of Department of the Army [formerly War] under this section to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941. Pub. L. 97-449 amended this section to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

Executive Documents

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Transportation related to compliance with permits for bridges across navigable waters issued under this section with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas were transferred to the Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, until the first anniversary of date of initial operation of the Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(c), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 402. Construction of bridges, etc., over Illinois and Mississippi Canal

The provisions of section 401 of this title are made applicable alike to the completed and uncompleted portions of the Illinois and Mississippi Canal. Whenever the Secretary of the Army shall approve plans for a bridge to be built across said canal he may, in his discretion, and subject to such terms and conditions as in his judgment are equitable, expedient, and just to the public, grant to the person or corporation building and owning such bridge a right of way across the lands of the United States on either side of and adjacent to the said canal; also the privilege of occupying so much of said lands as may be necessary for the piers, abutments, and other portions of the bridge structure and approaches.

(June 13, 1902, ch. 1079, § 10, 32 Stat. 374; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

Editorial Notes

CODIFICATION

Section is from part of act June 13, 1902, popularly known as the “Rivers and Harbors Appropriation Act of 1902”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

§ 403. Obstruction of navigable waters generally; wharves; piers, etc.; excavations and filling in

The creation of any obstruction not affirmatively authorized by Congress, to the navigable capacity of any of the waters of the United States is prohibited; and it shall not be lawful to build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any port, roadstead, haven, harbor, canal, navigable river, or other water of the United States, outside established harbor lines, or where no harbor lines have been established, except on plans recommended by the Chief of Engineers and authorized by the Secretary of the Army; and it shall not be lawful to excavate or fill, or in any manner to alter or modify the course, location, condition, or capacity of, any port, roadstead, haven, harbor, canal,

lake, harbor of refuge, or inclosure within the limits of any breakwater, or of the channel of any navigable water of the United States, unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of the Army prior to beginning the same.

(Mar. 3, 1899, ch. 425, §10, 30 Stat. 1151; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

Editorial Notes

CODIFICATION

Section is from act Mar. 3, 1899, popularly known as the “Rivers and Harbors Appropriation Act of 1899”, and together with section 401 of this title effectively superseded act Sept. 19, 1890, ch. 907, §7, 26 Stat. 454, as amended generally by act July 13, 1892, ch. 158, §3, 27 Stat. 88, which prohibited the erection of obstructions to navigation, and prohibited the erection of bridges over navigable waters under State legislation before the approval of the plans by the Secretary of War, and prohibited the alteration of channels unless authorized by that Secretary.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670 §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

EXPEDITING REPAIRS AND RECOVERY FROM FLOODING

Pub. L. 116-260, div. AA, title I, §122, Dec. 27, 2020, 134 Stat. 2635, provided that:

“(a) IN GENERAL.—To the maximum extent practicable, during the 5-year period beginning on the date of enactment of this Act [Dec. 27, 2020], the Secretary [of the Army] shall prioritize and expedite the processing of applications for permits under section 10 of the Act of March 3, 1899 (33 U.S.C. 403), and section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and permissions under section 14 of the Act of March 3, 1899 (33 U.S.C. 408), to complete repairs, reconstruction (including improvements), and upgrades to flood control infrastructure damaged by flooding events during calendar years 2017 through 2020, including flooding events caused by ice jams.

“(b) SAVINGS PROVISION.—Nothing in this section affects any obligation to comply with the requirements of any Federal law, including—

“(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(2) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

“(3) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).”

Executive Documents

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary of the Army, Chief of Engineers, or other official in Corps of Engineers of the United States Army related to compliance with permits for structures in navigable waters issued under this section with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas were transferred to the Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, until the first anniversary of date of initial operation of the Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(b), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 403a. Creation or continuance of obstruction of navigable waters

The creation of any obstruction, not affirmatively authorized by law, to the navigable capacity of any waters, in respect of which the United States has jurisdiction, is hereby prohibited. The continuance of any such obstruction, except bridges, piers, docks, and wharves, and similar structures erected for business purposes, whether heretofore or hereafter created, shall constitute an offense and each week's continuance of any such obstruction shall be deemed a separate offense. Every person and every corporation which shall be guilty of creating or continuing any such unlawful obstruction in this act mentioned, or who shall violate the provisions of the last four preceding sections of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment (in the case of a natural person) not exceeding one year, or by both such punishments, in the discretion of the court, the creating or continuing of any unlawful obstruction in this act mentioned may be prevented and such obstruction may be caused to be removed by the injunction of any district court exercising jurisdiction in any district in which such obstruction may be threatened or may exist; and proper proceedings in equity to this end may be instituted under the direction of the Attorney-General of the United States.

(Sept. 19, 1890, ch. 907, §10, 26 Stat. 454; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167.)

Editorial Notes

REFERENCES IN TEXT

This act, referred to in text, is act Sept. 19, 1890, ch. 907, 26 Stat. 426. Sections 6 to 9 of the Act are not classified to the Code. For complete classification of this act to the Code, see Tables.

CODIFICATION

Text of section, which was previously omitted from the Code, was restored in view of conflicting court deci-

sions as to whether or not section had been repealed or superseded. See eg. *United States v. Wishkah Boom Co.*, 136 F. 42 (9th Cir. 1905). (appeal dismissed [1906] 202 U.S. 613); *United States v. Wilson*, 235 F.2d 251 (2d Cir. 1956).

§ 403b. Lighting at docks and boat launching facilities

Whenever the Secretary considers a permit application for a dock or a boat launching facility under section 403 of this title, the Secretary shall consider the needs of such facility for lighting from sunset to sunrise to make such facility's presence known within a reasonable distance.

(Pub. L. 99-662, title IX, §946, Nov. 17, 1986, 100 Stat. 4200.)

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2201 of this title.

§ 404. Establishment of harbor lines; conditions to grants for extension of piers, etc.

Where it is made manifest to the Secretary of the Army that the establishment of harbor lines is essential to the preservation and protection of harbors he may, and is, authorized to cause such lines to be established, beyond which no piers, wharves, bulkheads, or other works shall be extended or deposits made, except under such regulations as may be prescribed from time to time by him: *Provided*, That, whenever the Secretary of the Army grants to any person or persons permission to extend piers, wharves, bulkheads, or other works, or to make deposits in any tidal harbor or river of the United States beyond any harbor lines established under authority of the United States, he shall cause to be ascertained the amount of tidewater displaced by any such structure or by any such deposits, and he shall, if he deem it necessary, require the parties to whom the permission is given to make compensation for such displacement either by excavating in some part of the harbor, including tidewater channels between high and low water mark, to such an extent as to create a basin for as much tidewater as may be displaced by such structure or by such deposits, or in any other mode that may be satisfactory to him.

(Mar. 3, 1899, ch. 425, §11, 30 Stat. 1151; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

Editorial Notes

CODIFICATION

Section is from act Mar. 3, 1899, popularly known as the “Rivers and Harbors Appropriation Act of 1899”.

PRIOR PROVISIONS

This section and section 406 of this title, superseded act Aug. 11, 1888, ch. 860, §12, 25 Stat. 425, as amended by act Sept. 19, 1890, ch. 907, §12, 26 Stat. 455, which authorized the establishment of harbor lines, and prescribed a penalty for a violation of the section or any rule made in pursuance of it.

Section also superseded act Aug. 18, 1894, ch. 299, §9, 28 Stat. 364, which contained provisions for compensation for tide water displaced similar to the proviso in this section.

Act Aug. 5, 1886, ch. 929, §2, 24 Stat. 329, which was probably omitted from the Code as superseded by this section, provided that: “In places where harbor-lines have not been established, and where deposits of debris of mines or stamp works can be made without injury to navigation, within lines to be established by the Secretary of War, said officer may, and is hereby authorized to, cause such lines to be established; and within such lines such deposits may be made, under regulations to be from time to time prescribed by him.”

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

§ 405. Establishment and modification of harbor lines on Potomac and Anacostia Rivers

The provisions of section 404 of this title are made applicable to the Potomac and Anacostia Rivers, and after July 25, 1912, harbor lines in the District of Columbia, or elsewhere on said rivers, shall be established or modified as therein provided.

(July 25, 1912, ch. 253, §1, 37 Stat. 206.)

Editorial Notes

CODIFICATION

Section is from part of section 1 of act July 25, 1912, popularly known as the “Rivers and Harbors Appropriation Act of 1912”.

§ 406. Penalty for wrongful construction of bridges, piers, etc.; removal of structures

Every person and every corporation that shall violate any of the provisions of sections 401, 403, and 404 of this title or any rule or regulation made by the Secretary of the Army in pursuance of the provisions of section 404 of this title shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding \$2,500 nor less than \$500, or by imprisonment (in the case of a natural person) not exceeding one year, or by both such punishments, in the discretion of the court. And further, the removal of any structures or parts of structures erected in violation of the provisions of the said sections may be enforced by the injunction of any district court exercising jurisdiction in any district in which such structures may exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States.

(Mar. 3, 1899, ch. 425, §12, 30 Stat. 1151; Feb. 20, 1900, ch. 23, §2, 31 Stat. 32; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

Editorial Notes

CODIFICATION

Section is from act Mar. 3, 1899, popularly known as the “Rivers and Harbors Appropriation Act of 1899”.

AMENDMENTS

1911—Act Mar. 3, 1911, transferred to the District Courts the enforcement powers formerly lodged in the Circuit Courts.

1900—Act Feb. 20, 1900, substituted “section eleven” for “section fourteen” where first appearing, which for codification purposes, was translated as “section 404 of this title”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

§ 407. Deposit of refuse in navigable waters generally

It shall not be lawful to throw, discharge, or deposit, or cause, suffer, or procure to be thrown, discharged, or deposited either from or out of any ship, barge, or other floating craft of any kind, or from the shore, wharf, manufacturing establishment, or mill of any kind, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state, into any navigable water of the United States, or into any tributary of any navigable water from which the same shall float or be washed into such navigable water; and it shall not be lawful to deposit, or cause, suffer, or procure to be deposited material of any kind in any place on the bank of any navigable water, or on the bank of any tributary of any navigable water, where the same shall be liable to be washed into such navigable water, either by ordinary or high tides, or by storms or floods, or otherwise, whereby navigation shall or may be impeded or obstructed: *Provided*, That nothing herein contained shall extend to, apply to, or prohibit the operations in connection with the improvement of navigable waters or construction of public works, considered necessary and proper by the

United States officers supervising such improvement or public work: *And provided further*, That the Secretary of the Army, whenever in the judgment of the Chief of Engineers anchorage and navigation will not be injured thereby, may permit the deposit of any material above mentioned in navigable waters, within limits to be defined and under conditions to be prescribed by him, provided application is made to him prior to depositing such material; and whenever any permit is so granted the conditions thereof shall be strictly complied with, and any violation thereof shall be unlawful.

(Mar. 3, 1899, ch. 425, §13, 30 Stat. 1152; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

Editorial Notes

CODIFICATION

Section is from act Mar. 3, 1899, popularly known as the “Rivers and Harbors Appropriation Act of 1899”.

PRIOR PROVISIONS

This section and sections 408, 411, and 412 of this title, superseded act Aug. 18, 1894, ch. 299, §§6, 7, 8, 28 Stat. 363, which prohibited the depositing of refuse in navigable waters for the improvement of which money had been appropriated, and the injury to sea walls and other works built by the Government, and prescribed penalties for violations, including penalties against masters, etc., and vessels.

Section also superseded act Sept. 19, 1890, ch. 907, §6, 26 Stat. 453, which prohibited obstructing navigation by deposits of refuse, etc., in navigable waters.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

SHORT TITLE

This section is popularly known as the “Refuse Act of 1899”.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

TERMINATION OF DISCHARGE PERMIT PROGRAM

No permits for discharges into navigable waters to be issued under this section after Oct. 18, 1972, and the discharge permit program to be carried out instead under section 1342 of this title, with applications under this section pending on Oct. 18, 1972, to be deemed applications for permits under section 1342, see section 1342 of this title.

Executive Documents

EXECUTIVE ORDER NO. 11574

Ex. Ord. No. 11574, Dec. 23, 1970, 35 F.R. 19627, which provided for administration of a permit program to regulate discharge of pollutants and other refuse matter into navigable waters or their tributaries and placement of such matter on their banks, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§ 407a. Deposit of debris of mines and stamp works

In places where harbor-lines have not been established, and where deposits of debris of mines or stamp works can be made without injury to navigation, within lines to be established by the Secretary of the Army, said officer may, and is authorized to, cause such lines to be established; and within such lines such deposits may be made, under regulations to be from time to time prescribed by him.

(Aug. 5, 1886, ch. 929, §2, 24 Stat. 329; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

§ 408. Taking possession of, use of, or injury to harbor or river improvements**(a) Prohibitions and permissions**

It shall not be lawful for any person or persons to take possession of or make use of for any purpose, or build upon, alter, deface, destroy, move, injure, obstruct by fastening vessels thereto or otherwise, or in any manner whatever impair the usefulness of any sea wall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the United States, or any piece of plant, floating or otherwise, used in the construction of such work under the control of the United States, in whole or in part, for the preservation and improvement of any of its navigable waters or to prevent floods, or as boundary marks, tide gauges, surveying stations, buoys, or other established marks, nor remove for ballast or other purposes any stone or other material composing such works: *Provided*, That the Secretary of the Army may, on the recommendation of the Chief of Engineers, grant permission for the temporary occupation or use of any of the aforemen-

tioned public works when in his judgment such occupation or use will not be injurious to the public interest: *Provided further*, That the Secretary may, on the recommendation of the Chief of Engineers, grant permission for the alteration or permanent occupation or use of any of the aforementioned public works when in the judgment of the Secretary such occupation or use will not be injurious to the public interest and will not impair the usefulness of such work.

(b) Concurrent review**(1) NEPA review****(A) In general**

In any case in which an activity subject to this section requires a review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), review and approval of the activity under this section shall, to the maximum extent practicable, occur concurrently with any review and decisions made under that Act.

(B) Corps of Engineers as a cooperating agency

If the Corps of Engineers is not the lead Federal agency for an environmental review described in subparagraph (A), the Corps of Engineers shall, to the maximum extent practicable and consistent with Federal laws—

(i) participate in the review as a cooperating agency (unless the Corps of Engineers does not intend to submit comments on the project); and

(ii) adopt and use any environmental document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by the lead agency to the same extent that a Federal agency could adopt or use a document prepared by another Federal agency under—

(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(II) parts 1500 through 1508 of title 40, Code of Federal Regulations (or successor regulations).

(2) Reviews by Secretary

In any case in which the Secretary must approve an action under this section and under another authority, including sections 401 and 403 of this title, section 1344 of this title, and section 1413 of this title, the Secretary shall—

(A) coordinate applicable reviews and, to the maximum extent practicable, carry out the reviews concurrently; and

(B) adopt and use any document prepared by the Corps of Engineers for the purpose of complying with the same law and that addresses the same types of impacts in the same geographic area if such document, as determined by the Secretary, is current and applicable.

(3) Contributed funds

The Secretary may accept and expend funds received from non-Federal public or private entities to evaluate under this section an alteration or permanent occupation or use of a work built by the United States.

(c) Timely review**(1) Complete application**

On or before the date that is 30 days after the date on which the Secretary receives an application for permission to take action affecting public projects pursuant to subsection (a), the Secretary shall inform the applicant whether the application is complete and, if it is not, what items are needed for the application to be complete.

(2) Decision

On or before the date that is 90 days after the date on which the Secretary receives a complete application for permission under subsection (a), the Secretary shall—

(A) make a decision on the application; or

(B) provide a schedule to the applicant identifying when the Secretary will make a decision on the application.

(3) Notification to Congress

In any case in which a schedule provided under paragraph (2)(B) extends beyond 120 days from the date of receipt of a complete application, the Secretary shall provide to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an explanation justifying the extended timeframe for review.

(d) Work Defined

For the purposes of this section, the term “work” shall not include unimproved real estate owned or operated by the Secretary as part of a water resources development project if the Secretary determines that modification of such real estate would not affect the function and usefulness of the project.

(Mar. 3, 1899, ch. 425, §14, 30 Stat. 1152; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Pub. L. 99-88, title I, §100, Aug. 15, 1985, 99 Stat. 315; Pub. L. 114-322, title I, §1156(a), Dec. 16, 2016, 130 Stat. 1664; Pub. L. 115-270, title I, §1165, Oct. 23, 2018, 132 Stat. 3797.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b)(1), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, 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.

CODIFICATION

Section is from act Mar. 3, 1899, popularly known as the “Rivers and Harbors Appropriation Act of 1899”.

PRIOR PROVISIONS

Section superseded act Sept. 19, 1890, ch. 907, §9, 26 Stat. 426, which prohibited persons taking possession of or using or injuring government works in navigable waters.

Act Aug. 14, 1876, ch. 267, §3, 19 Stat. 139, penalizing persons injuring any pier breakwater, or other work of the United States for the improvement of rivers or harbors or navigation, was probably omitted from the Code as superseded by this section.

AMENDMENTS

2018—Subsec. (d). Pub. L. 115-270 added subsec. (d).

2016—Pub. L. 114-322 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

1985—Pub. L. 99-88 inserted further proviso empowering Secretary, on recommendation of Chief of Engineers, to grant permission for alteration or permanent occupation or use of any of public works mentioned in this section when in judgment of Secretary such occupation or use will not be injurious to public interest and will not impair usefulness of such work.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

§ 408a. Expediting approval of modifications and alterations of projects by non-Federal interests**(a) Section 14 application defined**

In this section, the term “section 14 application” means an application submitted by an applicant to the Secretary requesting permission for the temporary occupation or use of a public work, or the alteration or permanent occupation or use of a public work, under section 14 of the Act of March 3, 1899 (commonly known as the “Rivers and Harbors Appropriation Act of 1899”) (33 U.S.C. 408).

(b) Review

Not later than 1 year after June 10, 2014, the Secretary, after providing notice and an opportunity for comment, shall establish a process for the review of section 14 applications in a timely and consistent manner.

(c) Benchmark goals**(1) Establishment of benchmark goals**

In carrying out subsection (b), the Secretary shall—

(A) establish benchmark goals for determining the amount of time it should take the Secretary to determine whether a section 14 application is complete;

(B) establish benchmark goals for determining the amount of time it should take the Secretary to approve or disapprove a section 14 application; and

(C) to the extent practicable, use such benchmark goals to make a decision on section 14 applications in a timely and consistent manner.

(2) Benchmark goals**(A) Benchmark goals for determining whether section 14 applications are complete**

To the extent practicable, the benchmark goals established under paragraph (1) shall provide that—

(i) the Secretary reach a decision on whether a section 14 application is complete not later than 15 days after the date of receipt of the application; and

(ii) if the Secretary determines that a section 14 application is not complete, the Secretary promptly notify the applicant of the specific information that is missing or the analysis that is needed to complete the application.

(B) Benchmark goals for reviewing completed applications

To the extent practicable, the benchmark goals established under paragraph (1) shall provide that—

(i) the Secretary generally approve or disapprove a completed section 14 application not later than 45 days after the date of receipt of the completed application; and

(ii) in a case in which the Secretary determines that additional time is needed to review a completed section 14 application due to the type, size, cost, complexity, or impacts of the actions proposed in the application, the Secretary generally approve or disapprove the application not later than 180 days after the date of receipt of the completed application.

(3) Notice

In any case in which the Secretary determines that it will take the Secretary more than 45 days to review a completed section 14 application, the Secretary shall—

(A) provide written notification to the applicant; and

(B) include in the written notice a best estimate of the Secretary as to the amount of time required for completion of the review.

(d) Failure to achieve benchmark goals

In any case in which the Secretary fails make¹ a decision on a section 14 application in accordance with the process established under this section, the Secretary shall provide written notice to the applicant, including a detailed description of—

(1) why the Secretary failed to make a decision in accordance with such process;

(2) the additional actions required before the Secretary will issue a decision; and

(3) the amount of time the Secretary will require to issue a decision.

(e) Notification**(1) Submission to Congress**

The Secretary shall provide a copy of any written notice provided under subsection (d) to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) Public availability

The Secretary shall maintain a publicly available database, including on the Internet, on—

(A) all section 14 applications received by the Secretary; and

(B) the current status of such applications.

(f) Guidance**(1) In general**

Not later than 120 days after December 16, 2016, the Secretary shall issue guidance on the implementation of this section.

(2) Incorporation

In issuing guidance under paragraph (1), or any other regulation, guidance, or engineering circular related to activities covered under section 408 of this title, the Secretary shall incorporate the requirements under this section.

(g) Prioritization

The Secretary shall prioritize and complete the activities required of the Secretary under this section.

(Pub. L. 113-121, title I, §1007, June 10, 2014, 128 Stat. 1214; Pub. L. 114-322, title I, §1156(b), Dec. 16, 2016, 130 Stat. 1665.)

Editorial Notes

AMENDMENTS

2016—Subsecs. (f), (g). Pub. L. 114-322 added subsecs. (f) and (g).

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

§ 409. Obstruction of navigable waters by vessels; floating timber; marking and removal of sunken vessels

It shall not be lawful to tie up or anchor vessels or other craft in navigable channels in such a manner as to prevent or obstruct the passage of other vessels or craft; or to sink, or permit or cause to be sunk, vessels or other craft in navigable channels; or to float loose timber and logs, or to float what is known as “sack rafts of timber and logs” in streams or channels actually navigated by steamboats in such manner as to obstruct, impede, or endanger navigation. And whenever a vessel, raft or other craft is wrecked and sunk in a navigable channel, it shall be the duty of the owner, lessee, or operator of such sunken craft to immediately mark it with a buoy or beacon during the day and, unless otherwise granted a waiver by the Commandant of the Coast Guard, a light at night, and to maintain such marks until the sunken craft is removed or abandoned, and the neglect or failure of the said owner, lessee, or operator so to do shall be unlawful; and it shall be the duty of the owner, lessee, or operator of such sunken craft to commence the immediate removal of the same, and prosecute such removal diligently, and failure to do so shall be considered as an abandonment of such craft, and subject the

¹ So in original. Probably should be preceded by “to”.

same to removal by the United States as provided for in sections 411 to 416, 418, and 502 of this title. The Commandant of the Coast Guard may waive the requirement to mark a wrecked vessel, raft, or other craft with a light at night if the Commandant determines that placing a light would be impractical and granting such a waiver would not create an undue hazard to navigation.

(Mar. 3, 1899, ch. 425, §15, 30 Stat. 1152; Pub. L. 99-662, title IX, §939(a), Nov. 17, 1986, 100 Stat. 4199; Pub. L. 108-293, title III, §301, Aug. 9, 2004, 118 Stat. 1041.)

Editorial Notes

CODIFICATION

Section is from act Mar. 3, 1899, popularly known as the "Rivers and Harbors Appropriation Act of 1899".

AMENDMENTS

2004—Pub. L. 108-293 substituted "day and, unless otherwise granted a waiver by the Commandant of the Coast Guard, a light" for "day and a lighted lantern" in second sentence and inserted at end "The Commandant of the Coast Guard may waive the requirement to mark a wrecked vessel, raft, or other craft with a light at night if the Commandant determines that placing a light would be impractical and granting such a waiver would not create an undue hazard to navigation."

1986—Pub. L. 99-662 substituted "or to sink" for "or to voluntarily or carelessly sink", struck out "accidentally or otherwise," after "navigable channel," and inserted ", lessee, or operator" after "owner" in three places.

§ 410. Exception as to floating loose timber, sack rafts, etc.; violation of regulations; penalty

The prohibition contained in section 409 of this title against floating loose timber and logs, or sack rafts, so called, of timber and logs in streams or channels actually navigated by steamboats, shall not apply to any navigable river or waterway of the United States or any part thereof whereon the floating of loose timber and logs and sack rafts of timber and logs is the principal method of navigation. But such method of navigation on such river or waterway or part thereof shall be subject to the rules and regulations prescribed by the Secretary of the Army as provided in this section.

The Secretary of the Army shall have power, and he is authorized and directed to prescribe rules and regulations, which he may at any time modify, to govern and regulate the floating of loose timber and logs, and sack rafts, (so called) of timber and logs and other methods of navigation on the streams and waterways, or any thereof, of the character, as to navigation, heretofore in this section described. The said rules and regulations shall be so framed as to equitably adjust conflicting interests between the different methods or forms of navigation; and the said rules and regulations shall be published at least once in such newspaper or newspapers of general circulation as in the opinion of the Secretary of the Army shall be best adapted to give notice of said rules and regulations to persons affected thereby and locally interested therein. And all modifications of said rules and regulations shall be similarly published. And such

rules and regulations when so prescribed and published as to any such stream or waterway shall have the force of law, and any violation thereof shall be a misdemeanor, and every person convicted of such violation shall be punished by a fine of not exceeding \$2,500 nor less than \$500, or by imprisonment (in case of a natural person) for not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court: *Provided*, That the proper action to enforce the provisions of this section may be commenced before any magistrate judge, judge, or court of the United States, and such magistrate judge, judge, or court shall proceed in respect thereto as authorized by law in the case of crimes or misdemeanors committed against the United States.

The right to alter, amend, or repeal this section at any time is reserved.

(May 9, 1900, ch. 387, §§1-3, 31 Stat. 172; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Pub. L. 90-578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

"Magistrate judge" substituted in text for "magistrate" pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, "magistrate" was substituted for "commissioner" pursuant to Pub. L. 90-578. See chapter 43 (§ 631 et seq.) of Title 28.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

§ 411. Penalty for wrongful deposit of refuse; use of or injury to harbor improvements, and obstruction of navigable waters generally

Every person and every corporation that shall violate, or that shall knowingly aid, abet, authorize, or instigate a violation of the provisions of sections 407, 408, 409, 414, and 415 of this title shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of up to \$25,000 per day, or by imprisonment (in the case of a natural person) for not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court, one-half of said fine to be paid to the person or persons giving information which shall lead to conviction.

(Mar. 3, 1899, ch. 425, §16, 30 Stat. 1153; Pub. L. 104-303, title II, §218(a), Oct. 12, 1996, 110 Stat. 3696.)

Editorial Notes

CODIFICATION

Section is from part of section 16 of act Mar. 3, 1899, popularly known as the "Rivers and Harbors Appropriation Act of 1899". The balance of such section, relating to liability of masters, pilots, and so forth and of vessels engaged in violations, is classified to section 412 of this title.

AMENDMENTS

1996—Pub. L. 104-303 substituted "407, 408, 409, 414, and 415" for "407, 408, and 409" and "of up to \$25,000 per day" for "not exceeding twenty-five hundred dollars nor less than five hundred dollars".

§ 412. Liability of masters, pilots, etc., and of vessels engaged in violations

Any and every master, pilot, and engineer, or person or persons acting in such capacity, respectively, on board of any boat or vessel who shall knowingly engage in towing any scow, boat, or vessel loaded with any material specified in section 407 of this title to any point or place of deposit or discharge in any harbor or navigable water, elsewhere than within the limits defined and permitted by the Secretary of the Army, or who shall willfully injure or destroy any work of the United States contemplated in section 408 of this title, or who shall willfully obstruct the channel of any waterway in the manner contemplated in section 409 of this title, shall be deemed guilty of a violation of this Act, and shall upon conviction be punished as provided in section 411 of this title, and shall also have his license revoked or suspended for a term to be fixed by the judge before whom tried and convicted. And any boat, vessel, scow, raft, or other craft used or employed in violating any of the provisions of sections 407, 408, 409, 414, and 415 of this title shall be liable for the pecuniary penalties specified in section 411 of this title, and in addition thereto for the amount of the damages done by said boat, vessel, scow, raft, or other craft, which latter sum shall be placed to the credit of the appropriation for the improvement of the harbor or waterway in which the damage occurred, and said boat, vessel, scow, raft, or other craft may be proceeded against summarily by way of libel in any district court of the United States having jurisdiction thereof.

(Mar. 3, 1899, ch. 425, §16, 30 Stat. 1153; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Pub. L. 104-303, title II, §218(a)(1), Oct. 12, 1996, 110 Stat. 3696.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in text, is act Mar. 3, 1899, ch. 425, 30 Stat. 1148, as amended, popularly known as the Rivers and Harbors Appropriation Act of 1899, which enacted sections 401, 403, 404, 406, 407, 408, 409, 411 to 416, 418, 502, 549, and 687 of this title, and amended section 686 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is from part of section 16 of act Mar. 3, 1899, popularly known as the "Rivers and Harbors Appropriation Act of 1899". The balance of such section, relating to penalties for the wrongful deposit of refuse, is classified to section 411 of this title.

AMENDMENTS

1996—Pub. L. 104-303 substituted "407, 408, 409, 414, and 415 of this title" for "407, 408, and 409 of this title".

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

§ 413. Duty of United States attorneys and other Federal officers in enforcement of provisions; arrest of offenders

The Department of Justice shall conduct the legal proceedings necessary to enforce the provisions of sections 401, 403, 404, 406, 407, 408, 409, 411, and 412 of this title; and it shall be the duty of United States attorneys to vigorously prosecute all offenders against the same whenever requested to do so by the Secretary of the Army or by any of the officials hereinafter designated, and it shall furthermore be the duty of said United States attorneys to report to the Attorney General of the United States the action taken by him against offenders so reported, and a transcript of such reports shall be transmitted to the Secretary of the Army by the Attorney General; and for the better enforcement of the said provisions and to facilitate the detection and bringing to punishment of such offenders, the officers and agents of the United States in charge of river and harbor improvements, and the assistant engineers and inspectors employed under them by authority of the Secretary of the Army, and the United States collectors of customs and other revenue officers shall have power and authority to swear out process, and to arrest and take into custody, with or without process, any person or persons who may commit any of the acts or offenses prohibited by the said sections, or who may violate any of the provisions of the same: *Provided*, That no person shall be arrested without process for any offense not committed in the presence of some one of the aforesaid officials: *And provided further*, That whenever any arrest is made under such sec-

tions, the person so arrested shall be brought forthwith before a magistrate judge, judge, or court of the United States for examination of the offenses alleged against him; and such magistrate judge, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

(Mar. 3, 1899, ch. 425, §17, 30 Stat. 1153; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; June 25, 1948, ch. 646, §1, 62 Stat. 909; Pub. L. 90-578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

Editorial Notes

CODIFICATION

Section is from act Mar. 3, 1899, popularly known as the "Rivers and Harbors Appropriation Act of 1899".

PRIOR PROVISIONS

Act Sept. 19, 1890, ch. 907, §11, 26 Stat. 455, was probably omitted from the Code as superseded by this section, or as rendered obsolete by act March 3, 1899, different sections of which superseded provisions of the act of 1890, the enforcement of which was provided for by section 11. It read as follows: "It shall be the duty of officers and agents having the supervision, on the part of the United States, of the works in progress for the preservation and improvement of said navigable waters, and, in their absence, of the United States collectors of customs and other revenue officers to enforce the provisions of this act by giving information to the district attorney of the United States for the district in which any violation of any provision of this act shall have been committed: *Provided*, That the provisions of this act shall not apply to Torch Lake, Houghton County, Michigan."

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorneys" for "district attorneys of the United States" and "district attorneys". See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes set out thereunder.

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

"Magistrate judge" substituted in text for "magistrate" pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, "magistrate" was substituted for "commissioner" pursuant to Pub. L. 90-578. See chapter 43 (§631 et seq.) of Title 28.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

Executive Documents

TRANSFER OF FUNCTIONS

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments required to be made by President with advice and consent of Senate were ordered abolished with such offices to be terminated not later than Dec. 31, 1966, by Reorg. Plan No. 1 of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out in the Appendix to Title 5, Government Organization and Employees. All functions of the offices eliminated were already vested in Secretary of the Treasury by Reorg. Plan No. 26 of 1950, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5.

§ 414. Removal by Secretary of the Army of sunken water craft generally; liability of owner, lessee, or operator

(a) Whenever the navigation of any river, lake, harbor, sound, bay, canal, or other navigable waters of the United States shall be obstructed or endangered by any sunken vessel, boat, water craft, raft, or other similar obstruction, and such obstruction has existed for a longer period than thirty days, or whenever the abandonment of such obstruction can be legally established in a less space of time, the sunken vessel, boat, water craft, raft, or other obstruction shall be subject to be broken up, removed, sold, or otherwise disposed of by the Secretary of the Army at his discretion, without liability for any damage to the owners of the same: *Provided*, That in his discretion, the Secretary of the Army may cause reasonable notice of such obstruction of not less than thirty days, unless the legal abandonment of the obstruction can be established in a less time, to be given by publication, addressed "To whom it may concern," in a newspaper published nearest to the locality of the obstruction, requiring the removal thereof: *And provided also*, That the Secretary of the Army may, in his discretion, at or after the time of giving such notice, cause sealed proposals to be solicited by public advertisement, giving reasonable notice of not less than ten days, for the removal of such obstruction as soon as possible after the expiration of the above specified thirty days' notice, in case it has not in the meantime been so removed, these proposals and contracts, at his discretion, to be conditioned that such vessel, boat, water craft, raft, or other obstruction, and all cargo and property contained therein, shall become the property of the contractor, and the contract shall be awarded to the bidder making the proposition most advantageous to the United States: *Provided*, That such bidder shall give satisfactory security to execute the work: *Provided further*, That any money received from the sale of any such wreck, or from any contractor for the removal of wrecks, under this paragraph shall be covered into the Treasury of the United States.

(b) The owner, lessee, or operator of such vessel, boat, watercraft, raft, or other obstruction as described in this section shall be liable to the United States for the cost of removal or destruction and disposal as described which exceeds the costs recovered under subsection (a). Any amount recovered from the owner, lessee, or operator of such vessel pursuant to this subsection

to recover costs in excess of the proceeds from the sale or disposition of such vessel shall be deposited in the general fund of the Treasury of the United States.

(Mar. 3, 1899, ch. 425, §19, 30 Stat. 1154; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Pub. L. 99-662, title IX, §939(b), Nov. 17, 1986, 100 Stat. 4199.)

Editorial Notes

CODIFICATION

Section is from act Mar. 3, 1899, popularly known as the "Rivers and Harbors Appropriation Act of 1899".

PRIOR PROVISIONS

Section superseded act June 14, 1880, ch. 211, §4, 21 Stat. 197, and act Aug. 2, 1882, ch. 375, 22 Stat. 208, which required the Secretary of War to give notice to the persons interested in wrecks obstructing navigation of the purpose of the Secretary to remove the same unless such parties should do so, and authorized the Secretary to remove the same on the failure of the parties interested to do so, and to sell the same to the highest bidder, and also authorized the Secretary to dispose of any sunken vessel or cargo before removal.

Section also superseded act Sept. 19, 1890, ch. 907, §8, 26 Stat. 454, which authorized the Secretary of War to remove wrecks remaining for more than two months.

AMENDMENTS

1986—Pub. L. 99-662 designated existing provision as subsec. (a) and added subsec. (b).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

Executive Documents

TRANSFER OF FUNCTIONS PERTAINING TO AIR FORCE

For transfer of certain functions insofar as they pertain to Air Force, and to extent that they were not previously transferred to Secretary of the Air Force and Department of the Air Force from Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40 [App. A(57)], July 22, 1949.

§ 415. Summary removal of water craft obstructing navigation; liability of owner, lessee, or operator

(a) Removal authority

Under emergency, in the case of any vessel, boat, water craft, or raft, or other similar ob-

struction, sinking or grounding, or being unnecessarily delayed in any Government canal or lock, or in any navigable waters mentioned in section 414 of this title, in such manner as to stop, seriously interfere with, or specially endanger navigation, in the opinion of the Secretary of the Army, or any agent of the United States to whom the Secretary may delegate proper authority, the Secretary of the Army or any such agent shall have the right to take immediate possession of such boat, vessel, or other water craft, or raft, so far as to remove or to destroy it and to clear immediately the canal, lock, or navigable waters aforesaid of the obstruction thereby caused, using his best judgment to prevent any unnecessary injury; and no one shall interfere with or prevent such removal or destruction: *Provided*, That the officer or agent charged with the removal or destruction of an obstruction under this section may in his discretion give notice in writing to the owners of any such obstruction requiring them to remove it: *And provided further*, That the actual expense, including administrative expenses, of removing any such obstruction as aforesaid shall be a charge against such craft and cargo; and if the owners thereof fail or refuse to reimburse the United States for such expense within thirty days after notification, then the officer or agent aforesaid may sell the craft or cargo, or any part thereof that may not have been destroyed in removal, and the proceeds of such sale shall be covered into the Treasury of the United States.

(b) Removal requirement

Not later than 24 hours after the Secretary of the Department in which the Coast Guard is operating issues an order to stop or delay navigation in any navigable waters of the United States because of conditions related to the sinking or grounding of a vessel, the owner or operator of the vessel, with the approval of the Secretary of the Army, shall begin removal of the vessel using the most expeditious removal method available or, if appropriate, secure the vessel pending removal to allow navigation to resume. If the owner or operator fails to begin removal or to secure the vessel pending removal or fails to complete removal on an expedited basis, the Secretary of the Army shall remove or destroy the vessel using the summary removal procedures under subsection (a).

(c) Liability of owner, lessee, or operator

The owner, lessee, or operator of such vessel, boat, watercraft, raft, or other obstruction as described in this section shall be liable to the United States for the actual cost, including administrative costs, of removal or destruction and disposal as described which exceeds the costs recovered under subsection (a). Any amount recovered from the owner, lessee, or operator of such vessel pursuant to this subsection to recover costs in excess of the proceeds from the sale or disposition of such vessel shall be deposited in the general fund of the Treasury of the United States.

(Mar. 3, 1899, ch. 425, §20, 30 Stat. 1154; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Pub. L. 99-662, title IX, §939(b), Nov. 17, 1986, 100 Stat.

4199; Pub. L. 104-303, title II, §218(b), Oct. 12, 1996, 110 Stat. 3696.)

Editorial Notes

CODIFICATION

Section is from part of section 20 of act Mar. 3, 1899, popularly known as the "Rivers and Harbors Appropriation Act of 1899". Another part of that section, appropriating money necessary to execute its provisions, is classified to section 416 of this title.

Section 20 of act Mar. 3, 1899, also contained a repealing clause with a proviso saving pending actions and rights of actions. It was amended by act Feb. 20, 1900, ch. 23, §3, 31 Stat. 32, and again amended by act June 13, 1902, ch. 1079, §12, 32 Stat. 375, by adding another proviso which is classified to section 418 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-303, §218(b)(1), substituted "actual expense, including administrative expenses, of removing" for "expense of removing".

Subsec. (b). Pub. L. 104-303, §218(b)(4), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 104-303, §218(b)(2), (3), redesignated subsec. (b) as (c) and substituted "actual cost, including administrative costs, of removal" for "cost of removal".

1986—Pub. L. 99-662 designated existing provision as subsec. (a) and added subsec. (b).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

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.

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

Executive Documents

TRANSFER OF FUNCTIONS PERTAINING TO AIR FORCE

For transfer of certain functions insofar as they pertain to Air Force, and to extent that they were not previously transferred to Secretary of the Air Force and Department of the Air Force from Secretary of the Army and Department of the Army, see Secretary of Defense Transfer Order No. 40 [App. A(57)], July 22, 1949.

§ 416. Appropriations for removal of sunken water craft

Such sum of money as may be necessary to execute sections 414 and 415 of this title is here-

by appropriated out of any money in the Treasury not otherwise appropriated, to be paid out on the requisition of the Secretary of the Army.

(Mar. 3, 1899, ch. 425, §20(a), formerly §20, 30 Stat. 1155; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; renumbered §20(a), Pub. L. 99-662, title IX, §939(b), Nov. 17, 1986, 100 Stat. 4199.)

Editorial Notes

CODIFICATION

Section is from part of section 20(a) of act Mar. 3, 1899, popularly known as the "Rivers and Harbors Appropriation Act of 1899". See Codification and Amendment notes set out under section 415 of this title.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

APPROPRIATIONS

Act June 26, 1934, ch. 756, §2, 48 Stat. 1225, which was classified to section 725a of former Title 31, Money and Finance, repealed the permanent appropriation under the title "Removing sunken vessels or craft obstructing or endangering navigation (8x888)" effective July 1, 1935, and provided that such portions of any acts as make permanent appropriations to be expended under such account are amended so as to authorize, in lieu thereof, annual appropriations from the general fund of the Treasury in identical terms and in such amounts as now provided by the laws providing such permanent appropriations.

§ 417. Expenses of investigations by Department of the Army

Expenses incurred by the Engineer Department of the Department of the Army in all investigations, inspections, hearings, reports, service of notice, or other action incidental to examination of plans or sites of bridges or other structures built or proposed to be built in or over navigable waters, or to examinations into alleged violations of laws for the protection and preservation of navigable waters, or to the establishment or marking of harbor lines, shall be payable from any funds which may be available for the improvement, maintenance, operation, or care of the waterways or harbors affected, or if such funds are not available in sums judged by the Chief of Engineers to be adequate, then from any funds available for examinations, surveys, and contingencies of rivers and harbors.

(Mar. 3, 1905, ch. 1482, §6, 33 Stat. 1148; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956,

ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

§ 418. Provisions for protection of New York Harbor unaffected

Nothing contained in sections 401, 403, 404, 406, 407, 408, 409, 411 to 416, and 502 of this title shall be construed as repealing, modifying, or in any manner affecting the provisions of subchapter III of this chapter.

(Mar. 3, 1899, ch. 425, §20(a), formerly §20, 30 Stat. 1154; Feb. 20, 1900, ch. 23, §3, 31 Stat. 32; June 13, 1902, ch. 1079, §12, 32 Stat. 375; renumbered §20(a), Pub. L. 99-662, title IX, §939(b), Nov. 17, 1986, 100 Stat. 4199.)

Editorial Notes

REFERENCES IN TEXT

Subchapter III (§441 et seq.) of this chapter, referred to in text, was in the original a reference to the Act of June 29, 1888, as amended by section 3 of the river and harbor Act of August 18, 1894.

CODIFICATION

Section is from part of section 20(a) of act Mar. 3, 1899, popularly known as the "Rivers and Harbors Appropriation Act of 1899". See Codification and Amendment notes set out under section 415 of this title.

§ 419. Regulation by Secretary governing transportation and dumping of dredgings, refuse, etc., into navigable waters; oyster lands; appropriations

The Secretary of the Army is authorized and empowered to prescribe regulations to govern the transportation and dumping into any navigable water, or waters adjacent thereto, of dredgings, earth, garbage, and other refuse materials of every kind or description, whenever in his judgment such regulations are required in the interest of navigation. Such regulations shall be posted in conspicuous and appropriate places for the information of the public; and every person or corporation which shall violate the said regulations, or any of them, shall be deemed guilty of a misdemeanor and shall be subject to the penalties prescribed in sections 411 and 412 of this title, for violation of the provisions of section 407 of this title: *Provided*, That any regulations made in pursuance hereof may be enforced as provided in section 413 of this title, the provisions whereof are made applicable to the said regulations: *Provided further*, That this section shall not apply to any waters within the jurisdictional boundaries of any State which are now or may hereafter be used for the cul-

tivation of oysters under the laws of such State, except navigable channels which have been or may hereafter be improved by the United States, or to be designated as navigable channels by competent authority, and in making such improvements of channels, the material dredged shall not be deposited upon any ground in use in accordance with the laws of such State for the cultivation of oysters, except in compliance with said laws: *And provided further*, That any expense necessary in executing this section may be paid from funds available for the improvement of the harbor or waterway, for which regulations may be prescribed, and in case no such funds are available the said expense may be paid from appropriations made by Congress for examinations, surveys, and contingencies of rivers and harbors.

(Mar. 3, 1905, ch. 1482, §4, 33 Stat. 1147; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

§ 419a. Management practices to extend capacity and useful life of dredged material disposal areas

The Secretary of the Army, acting through the Chief of Engineers, shall utilize and encourage the utilization of such management practices as he determines appropriate to extend the capacity and useful life of dredged material disposal areas such that the need for new dredged material disposal areas is kept to a minimum. Management practices authorized by this section shall include, but not be limited to, the construction of dikes, consolidation and dewatering of dredged material, and construction of drainage and outflow facilities.

(Pub. L. 94-587, §148, Oct. 22, 1976, 90 Stat. 2931.)

§ 420. Piers and cribs on Mississippi and St. Croix Rivers

The owners of sawmills on the Mississippi River and the Saint Croix River in the States of Wisconsin and Minnesota are authorized and empowered under the direction of the Secretary of the Army, to construct piers or cribs in front of their mill property on the banks of the river,

for the protection of their mills and rafts against damage by floods and ice: *Provided, however*, That the piers or cribs so constructed shall not interfere with or obstruct the navigation of the river. And in case any pier or crib constructed under authority of this section shall at any time, and for any cause, be found to obstruct the navigation of the river, the Government expressly reserves the right to remove or direct the removal of it, at the cost and expense of the owners thereof.

(R.S. § 5254; May 1, 1882, ch. 112, 22 Stat. 52; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

Editorial Notes

CODIFICATION

R.S. § 5254 derived from act Mar. 3, 1873, ch. 278, 17 Stat. 606.

AMENDMENTS

1882—Act May 1, 1882, inserted reference to Saint Croix River in the States of Wisconsin and Minnesota.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

§ 421. Deposit of refuse, etc., in Lake Michigan near Chicago

It shall not be lawful to throw, discharge, dump, or deposit, or cause, suffer, or procure, to be thrown, discharged, dumped, or deposited, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state into Lake Michigan, at any point opposite or in front of the county of Cook, in the State of Illinois, or the county of Lake in the State of Indiana, within eight miles from the shore of said lake, unless said material shall be placed inside of a breakwater so arranged as not to permit the escape of such refuse material into the body of the lake and cause contamination thereof; and no officer of the Government shall dump or cause or authorize to be dumped any material contrary to the provisions of this section: *Provided, however*, That the provisions of this section shall not apply to work in connection with the construction, repair, and protection of breakwaters and other structures built in aid of

navigation, or for the purpose of obtaining water supply. Any person violating any provision of this section shall be guilty of a misdemeanor, and on conviction thereof shall be fined for each offense not exceeding \$1,000.

(June 23, 1910, ch. 359, 36 Stat. 593.)

Editorial Notes

CODIFICATION

Section is from act June 23, 1910, popularly known as the "Rivers and Harbors Act of 1910".

§ 422. Modification and extension of harbor lines at Chicago

The Secretary of the Army is authorized, in his discretion, to modify and extend harbor lines in front of the city of Chicago in such manner as to permit park extension work which may be desired by the municipal authorities, including the changing and widening of the southern entrance to the Chicago Harbor.

(Aug. 26, 1912, ch. 408, § 5, 37 Stat. 626; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

Editorial Notes

CODIFICATION

Section is from act Aug. 26, 1912, popularly known as the "Deficiency Appropriation Act for 1912".

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

§ 423. Establishment of pierhead and bulkhead lines in Wilmington Harbor, California

The Secretary of the Army is authorized to fix and establish pierhead and bulkhead lines, either or both, in the inner harbor of San Pedro, otherwise known as Wilmington Harbor, California, beyond which no piers, wharves, bulkheads, or other works shall be extended or deposits made except under such regulations as shall be prescribed from time to time by the Secretary of the Army.

(Mar. 26, 1908, No. 14, 35 Stat. 569; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

§ 424. Establishment of pierhead or bulkhead lines in Newport Harbor, California

The Secretary of the Army is authorized and directed to fix and establish pierhead and bulkhead lines, either or both, at Newport Harbor, California, in accordance with plan dated United States Engineer Office, Los Angeles, California, March 25, 1913, and entitled "Newport Bay, California", showing harbor lines, beyond which no piers, wharfs, bulkheads, or other works shall be extended or deposit made, except under such regulations as shall be prescribed from time to time by the Secretary of the Army.

(July 27, 1916, ch. 260, §3, 39 Stat. 411; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

Editorial Notes

CODIFICATION

Section is from act July 27, 1916, popularly known as the "Rivers and Harbors Appropriation Act of 1916".

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

§ 424a. Modification of harbor lines in Newport Harbor, California

The Secretary of the Army is authorized to modify from time to time, the harbor lines at Newport Harbor, California, established in pursuance of section 424 of this title: *Provided*, That in his opinion such modification will not injuriously affect the interests of navigation.

(Mar. 3, 1925, ch. 467, §10, 43 Stat. 1197; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

§ 425. Omitted**Editorial Notes**

CODIFICATION

Section, act June 7, 1924, ch. 316, §9, 43 Stat. 606, directed Secretary of War to investigate depositing of polluting substances into navigable streams and report the results to Congress not later than two years from June 7, 1924.

§ 426. Investigations concerning erosion of shores of coastal and lake waters

The Chief of Engineers of the United States Army, under the direction of the Secretary of the Army, is authorized and directed to cause investigations and studies to be made in cooperation with the appropriate agencies of the various States on the Atlantic, Pacific, and gulf coasts and on the Great Lakes, and of the States of Alaska and Hawaii, the Commonwealth of Puerto Rico, and the possessions of the United States, with a view to devising effective means of preventing erosion of the shores of coastal and lake waters by waves and currents; and any expenses incident and necessary thereto may be paid from funds appropriated for General Investigations, Civil Functions, Department of the Army: *Provided*, That the Department of the Army may release to the appropriate cooperating agencies information obtained by these investigations and studies prior to the formal transmission of reports to Congress: *Provided further*, That no money shall be expended under authority of this section in any State which does not provide for cooperation with the agents

of the United States and contribute to the project such funds or services as the Secretary of the Army may deem appropriate and require; that there shall be organized under the Chief of Engineers, United States Army, a Board of seven members, of whom four shall be officers of the Corps of Engineers and three shall be civilian engineers selected by the Chief of Engineers with regard to their special fitness in the field of beach erosion and shore protection. The Board will furnish such technical assistance as may be directed by the Chief of Engineers in the conduct of such studies as may be undertaken and will review the reports of the investigations made. In the consideration of such studies as may be referred to the Board by the Chief of Engineers, the Board shall, when it considers it necessary and with the sanction of the Chief of Engineers, make, as a board or through its members, personal examination of localities under investigation: *Provided further*, That the civilian members of the Board may be paid at rates not to exceed \$100 a day for each day of attendance at Board meetings, not to exceed thirty days per annum, in addition to the traveling and other necessary expenses connected with their duties on the Board in accordance with the provisions of section 5703 of title 5.

(July 3, 1930, ch. 847, § 2, 46 Stat. 945; Pub. L. 86-645, title I, § 103, July 14, 1960, 74 Stat. 484.)

Editorial Notes

REFERENCES IN TEXT

The Board, referred to in text, means the Beach Erosion Board, which was abolished by Pub. L. 88-172, § 1, Nov. 7, 1963, 77 Stat. 304. See note set out below.

CODIFICATION

“Section 5703 of title 5” substituted in text for “section 5 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 73b-2)”, on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1960—Pub. L. 86-645, among other changes, substituted provisions requiring the three civilian members of the Board to be civilian engineers selected by the Chief of Engineers with regard to their special fitness in the field of beach erosion and shore protection for provisions which required the civilian members to be selected with regard to their special fitness from among the State agencies cooperating with the Department of the Army, and provisions authorizing payment of civilian members at rates not to exceed \$100 a day, for not more than 30 days per annum, for provisions which required the States to pay the salaries of the civilian members.

Statutory Notes and Related Subsidiaries

ABOLITION OF BEACH EROSION BOARD

Pub. L. 88-172, § 1, Nov. 7, 1963, 77 Stat. 304, provided in part: “That the Board established by section 2 of the River and Harbor Act approved July 3, 1930, as amended (33 U.S.C. 426), referred to as the Beach Erosion Board, is hereby abolished.” For the transfer of functions of the Beach Erosion Board to the Coastal Engineering Research Center and the Board of Engineers for Rivers and Harbors, see sections 426-1 and 426-3 of this title. For termination of Board of Engineers for Rivers and Harbors 180 days after Oct. 31, 1992, and reassignment of

duties and responsibilities by Secretary of Army, see section 223 of Pub. L. 102-580, set out as a note under section 541 of this title.

GREAT LAKES LEVELS STUDY

Pub. L. 99-662, title VII, § 706, Nov. 17, 1986, 100 Stat. 4158, authorized Secretary of the Army, in cooperation with National Oceanic and Atmospheric Administration, Federal Emergency Management Agency, International Joint Commission, and other appropriate Federal, State, and local agencies and the private sector, to conduct a study of shoreline protection and beach erosion control policy and related projects of the Secretary, in view of the current situation and long-term expected increases in levels of the Great Lakes and directed Secretary, within three years after Nov. 17, 1986, to transmit the study, together with supporting documentation and recommendations to Congress.

STUDY OF RISING OCEANS

Pub. L. 99-662, title VII, § 731, Nov. 17, 1986, 100 Stat. 4165, authorized Secretary of the Army, in cooperation with National Oceanic and Atmospheric Administration, Federal Emergency Management Agency, and other appropriate Federal, State, and local agencies and the private sector, to conduct a study of shoreline protection and beach erosion control policy and related projects of the Secretary, in view of the prospect for long-term increases in levels of the ocean and directed Secretary, within three years after Nov. 17, 1986, to transmit the study, together with supporting documentation and recommendations to Congress.

APPLICATION OF EXISTING LAW TO SURVEYS RELATING TO SHORE PROTECTION

Pub. L. 87-874, § 103(b), Oct. 23, 1962, 76 Stat. 1179, provided that: “All provisions of existing law relating to surveys of rivers and harbors shall apply to surveys relating to shore protection and section 2 of the River and Harbor Act approved July 3, 1930, as amended (33 U.S.C. 426), is modified to the extent inconsistent herewith.”

§ 426-1. Coastal Engineering Research Center; establishment; powers and functions

There shall be established under the Chief of Engineers, United States Army, a Coastal Engineering Research Center which, except as hereinafter provided in section 426-3 of this title, shall be vested with all the functions of the Beach Erosion Board, including the authority to make general investigations as provided in section 426a of this title, and such additional functions as the Chief of Engineers may assign.

(Pub. L. 88-172, § 1, Nov. 7, 1963, 77 Stat. 304.)

Editorial Notes

CODIFICATION

Section was enacted as part of section 1 of Pub. L. 88-172. The remainder of said section 1, abolishing the Beach Erosion Board, is classified as a note under section 426 of this title.

Statutory Notes and Related Subsidiaries

ABOLITION OF BEACH EROSION BOARD

Section 1 of Pub. L. 88-172 abolished Beach Erosion Board, and is set out as a note under section 426 of this title. For the transfer of certain functions of said Board to Board of Engineers for Rivers and Harbors, see section 426-3 of this title. For termination of Board of Engineers for Rivers and Harbors 180 days after Oct. 31, 1992, and reassignment of duties and responsibilities by Secretary of Army, see section 223 of Pub. L. 102-580, set out as a note under section 541 of this title.

§ 426-2. Board on Coastal Engineering Research

The functions of the Coastal Engineering Research Center established by section 426-1 of this title, shall be conducted with the guidance and advice of a Board on Coastal Engineering Research, constituted by the Chief of Engineers in the same manner as the present Beach Erosion Board.

(Pub. L. 88-172, §2, Nov. 7, 1963, 77 Stat. 305.)

Statutory Notes and Related Subsidiaries

COMPENSATION OF BOARD

Pub. L. 91-611, title I, §105, Dec. 31, 1970, 84 Stat. 1819, provided that: "The civilian members of the Board on Coastal Engineering Research authorized by the Act of November 7, 1963 (33 U.S.C. 426-2) may be paid at rates not to exceed the daily equivalent of the rate for GS-18 for each day of attendance at Board meetings, not to exceed thirty days per year, in addition to the traveling and other necessary expenses connected with their duties on the Board in accordance with the provisions of 5 U.S.C. 5703(b), (d), and 5707."

[References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.]

ABOLITION OF BEACH EROSION BOARD

Section 1 of Pub. L. 88-172 abolished Beach Erosion Board, and is set out as a note under section 426 of this title. For transfer of functions of Board to Coastal Engineering Research Center and Board of Engineers for Rivers and Harbors, see sections 426-1 and 426-3 of this title. For termination of Board of Engineers for Rivers and Harbors 180 days after Oct. 31, 1992, and reassignment of duties and responsibilities by Secretary of Army, see section 223 of Pub. L. 102-580, set out as a note under section 541 of this title.

§ 426-3. Transfer of functions of Beach Erosion Board

All functions of the Beach Erosion Board pertaining to review of reports of investigations made concerning erosion of the shores of coastal and lake waters, and the protection of such shores, are hereby transferred to the Board established by section 541 of this title, referred to as the Board of Engineers for Rivers and Harbors.

(Pub. L. 88-172, §3, Nov. 7, 1963, 77 Stat. 305.)

Statutory Notes and Related Subsidiaries

TERMINATION OF BOARD OF ENGINEERS FOR RIVERS AND HARBORS AND REASSIGNMENT OF DUTIES AND RESPONSIBILITIES

For termination of Board of Engineers for Rivers and Harbors 180 days after Oct. 31, 1992, and reassignment of duties and responsibilities by Secretary of Army, see section 223 of Pub. L. 102-580, set out as a note under section 541 of this title.

ABOLITION OF BEACH EROSION BOARD

Section 1 of Pub. L. 88-172 abolished Beach Erosion Board, and is set out as a note under section 426 of this title. For transfer of certain functions of Board to Coastal Engineering Research Center, see section 426-1 of this title.

§ 426a. Additional investigations concerning erosion of shores of coastal and lake waters; payment of costs; "shores" defined

In addition to participating in cooperative investigations and studies with agencies of the various States as authorized in section 426 of this title, it shall be the duty of the Chief of Engineers, through the Coastal Engineering Research Center, to make general investigations with a view to preventing erosion of the shores of the United States by waves and currents and determining the most suitable methods for the protection, restoration, and development of beaches; and to publish from time to time such useful data and information concerning the erosion and protection of beaches and shore lines as the Center may deem to be of value to the people of the United States. The cost of the general investigations authorized by sections 426a to 426d of this title shall be borne wholly by the United States. As used in said sections, the word "shores" includes the shore lines of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, Lake Champlain, and estuaries and bays directly connected therewith.

(July 31, 1945, ch. 334, §1, 59 Stat. 508; Pub. L. 88-172, §1, Nov. 7, 1963, 77 Stat. 304.)

Editorial Notes

CODIFICATION

Coastal Engineering Research Center has been substituted for Beach Erosion Board pursuant to Pub. L. 88-172, §1, providing in part for the abolition of the Beach Erosion Board, which is set out as a note under section 426 of this title. For transfer of investigatory functions of the Beach Erosion Board to the Coastal Engineering Research Center, see section 426-1 of this title.

§ 426b. Applicability of existing laws; projects referred to Board of Engineers for Rivers and Harbors

All provisions of existing law relating to examinations and surveys and to works of improvement of rivers and harbors shall apply, insofar as practicable, to examinations and surveys and to works of improvement relating to shore protection; except that all projects having to do with shore protection shall be referred for consideration and recommendation to the Board of Engineers for Rivers and Harbors.

(July 31, 1945, ch. 334, §2, 59 Stat. 508; Pub. L. 88-172, §1, Nov. 7, 1963, 77 Stat. 304.)

Editorial Notes

CODIFICATION

Provision for the referral of projects having to do with shore protection for consideration and recommendation to the Beach Erosion Board have been omitted as obsolete in view of the abolition of the Beach Erosion Board and the transfer of its review function to the Board of Engineers for Rivers and Harbors by Pub. L. 88-172, §1. See section 426-3 of this title.

Statutory Notes and Related Subsidiaries

TERMINATION OF BOARD OF ENGINEERS FOR RIVERS AND HARBORS AND REASSIGNMENT OF DUTIES AND RESPONSIBILITIES

For termination of Board of Engineers for Rivers and Harbors 180 days after Oct. 31, 1992, and reassignment of

duties and responsibilities by Secretary of Army, see section 223 of Pub. L. 102-580, set out as a note under section 541 of this title.

§ 426c. Report by Coastal Engineering Research Center

The Coastal Engineering Research Center, in making its report on any cooperative investigation and studies under the provisions of section 426 of this title, relating to shore protection work shall, in addition to any other matters upon which it may be required to report, state its opinion as to (a) the advisability of adopting the project; (b) what public interest, if any, is involved in the proposed improvement; and (c) what share of the expense, if any, should be borne by the United States.

(July 31, 1945, ch. 334, §3, 59 Stat. 508; Pub. L. 88-172, §1, Nov. 7, 1963, 77 Stat. 304.)

Editorial Notes

CODIFICATION

Coastal Engineering Research Center has been substituted for Beach Erosion Board pursuant to Pub. L. 88-172, §1, providing in part for the abolition of the Beach Erosion Board, which is set out as a note under section 426 of this title. For transfer of investigatory functions of the Beach Erosion Board to the Coastal Engineering Research Center see section 426-1 of this title.

§ 426d. Payment of expenses

Any expenses incident and necessary in the undertaking of the general investigations authorized by sections 426a to 426d of this title may be paid from funds appropriated prior to or after July 31, 1945, for examinations, surveys, and contingencies for rivers and harbors.

(July 31, 1945, ch. 334, §4, 59 Stat. 508.)

§ 426e. Federal aid in protection of shores

(a) Declaration of policy

With the purpose of preventing damage to the shores and beaches of the United States, its Territories and possessions and promoting and encouraging the healthful recreation of the people, it is declared to be the policy of the United States, subject to sections 426e to 426h-1 of this title, to promote shore protection projects and related research that encourage the protection, restoration, and enhancement of sandy beaches, including beach restoration and periodic beach nourishment, on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprises. In carrying out this policy, preference shall be given to areas in which there has been a Federal investment of funds and areas with respect to which the need for prevention or mitigation of damage to shores and beaches is attributable to Federal navigation projects or other Federal activities.

(b) Federal contribution; maximum amount; exceptions

The Federal contribution in the case of any project referred to in subsection (a) shall not exceed one-half of the cost of the project, and the remainder shall be paid by the State, municipality, or other political subdivision in which

the project is located, except that (1) the costs allocated to the restoration and protection of Federal property shall be borne fully by the Federal Government, (2) Federal participation in the cost of a project for restoration and protection of State, county, and other publicly owned shore parks and conservation areas may be, in the discretion of the Chief of Engineers, not more than 70 per centum of the total cost exclusive of land costs, when such areas: Include a zone which excludes permanent human habitation; include but are not limited to recreational beaches; satisfy adequate criteria for conservation and development of the natural resources of the environment; extend landward a sufficient distance to include, where appropriate, protective dunes, bluffs, or other natural features which serve to protect the uplands from damage; and provide essentially full park facilities for appropriate public use, all of which shall meet with the approval of the Chief of Engineers, and (3) Federal participation in the cost of a project providing hurricane protection may be, in the discretion of the Secretary¹ not more than 70 per centum of the total cost exclusive of land costs.

(c) Periodic beach nourishment; "construction" defined

When in the opinion of the Chief of Engineers the most suitable and economical remedial measures would be provided by periodic beach nourishment, the term "construction" may be construed for the purposes of sections 426e to 426h-1 of this title to include the deposit of sand fill at suitable intervals of time to furnish sand supply to project shores for a length of time specified by the Chief of Engineers.

(d) Shores other than public

Shores other than public will be eligible for Federal assistance if there is benefit such as that arising from public use or from the protection of nearby public property or if the benefits to those shores are incidental to the project, and the Federal contribution to the project shall be adjusted in accordance with the degree of such benefits.

(e) Authorization of projects

(1) In general

No Federal contributions shall be made with respect to a project under sections 426e to 426h-1 of this title unless the plan therefor shall have been specifically adopted and authorized by Congress after investigation and study by the Coastal Engineering Research Center under the provisions of section 426 of this title as amended and supplemented, or, in the case of a small project under section 426g or 426h² of this title, unless the plan therefor has been approved by the Chief of Engineers.

(2) Studies

(A) In general

The Secretary shall—

(i) recommend to Congress studies concerning shore protection projects that meet the criteria established under sec-

¹ So in original. Probably should be followed by a comma.

² See References in Text note below.

tions 426e to 426h-1 of this title (including subparagraph (B)(iii)) and other applicable law;

(ii) conduct such studies as Congress requires under applicable laws; and

(iii) report the results of the studies to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(B) Recommendations for shore protection projects

(i) In general

The Secretary shall recommend to Congress the authorization or reauthorization of shore protection projects based on the studies conducted under subparagraph (A).

(ii) Considerations

In making recommendations, the Secretary shall consider the economic and ecological benefits of the shore protection project.

(C) Coordination of projects

In conducting studies and making recommendations for a shore protection project under this paragraph, the Secretary shall—

(i) determine whether there is any other project being carried out by the Secretary or the head of another Federal agency that may be complementary to the shore protection project; and

(ii) if there is such a complementary project, describe the efforts that will be made to coordinate the projects.

(3) Shore protection projects

(A) In general

The Secretary shall construct, or cause to be constructed, any shore protection project authorized by Congress, or separable element of such a project, for which funds have been appropriated by Congress.

(B) Agreements

(i) Requirement

After authorization by Congress, and before commencement of construction, of a shore protection project or separable element, the Secretary shall enter into a written agreement with a non-Federal interest with respect to the project or separable element.

(ii) Terms

The agreement shall—

(I) specify the life of the project; and

(II) ensure that the Federal Government and the non-Federal interest will cooperate in carrying out the project or separable element.

(C) Coordination of projects

In constructing a shore protection project or separable element under this paragraph, the Secretary shall, to the extent practicable, coordinate the project or element with any complementary project identified under paragraph (2)(C).

(Aug. 13, 1946, ch. 960, §1, 60 Stat. 1056; July 28, 1956, ch. 768, 70 Stat. 702; Pub. L. 87-874, title I,

§103(a)(1)-(3), Oct. 23, 1962, 76 Stat. 1178; Pub. L. 88-172, §1, Nov. 7, 1963, 77 Stat. 304; Pub. L. 91-611, title II, §208, Dec. 31, 1970, 84 Stat. 1829; Pub. L. 104-303, title II, §227(a), (b), (e)(2)(A), (B), Oct. 12, 1996, 110 Stat. 3698, 3703.)

Editorial Notes

REFERENCES IN TEXT

Section 426h of this title, referred to in subsec. (e)(1), was repealed by Pub. L. 110-114, title II, §2038(b), Nov. 8, 2007, 121 Stat. 1100.

CODIFICATION

Coastal Engineering Research Center, referred to in subsec. (e), has been substituted for Beach Erosion Board pursuant to Pub. L. 88-172, §1, providing in part for the abolition of the Beach Erosion Board and for transfer of functions of the Beach Erosion Board to the Coastal Engineering Research Center. See section 426-1 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-303, §227(a), inserted “and beaches” after “damage to the shores” and substituted “sections 426e to 426h-1 of this title, to promote shore protection projects and related research that encourage the protection, restoration, and enhancement of sandy beaches, including beach restoration and periodic beach nourishment, on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprises. In carrying out this policy, preference shall be given to areas in which there has been a Federal investment of funds and areas with respect to which the need for prevention or mitigation of damage to shores and beaches is attributable to Federal navigation projects or other Federal activities.” for “the following provisions of sections 426e to 426h of this title to assist in the construction, but not the maintenance, of works for the restoration and protection against erosion, by waves and currents, of the shores of the United States, its Territories and possessions.”

Subsec. (b)(3). Pub. L. 104-303, §227(e)(2), substituted “Secretary” for “Secretary of the Army, acting through the Chief of Engineers,” and struck out second period at end.

Subsec. (e). Pub. L. 104-303, §227(b), (e)(2)(B), inserted subsec. heading, designated existing provisions as par. (1) and inserted heading, realigned margin, inserted “or 426h” after “under section 426g”, and added pars. (2) and (3).

1970—Subsec. (b). Pub. L. 91-611 provided for designation of existing provisions as cls. (1) and (2) by insertion of “(1)” after “except that” and substitution of “(2)” for “and, further, that” and added cl. (3).

1962—Subsec. (b). Pub. L. 87-874, §103(a)(1), (2), increased maximum limit on amount of Federal contributions from one-third to one-half of project cost, provided that costs for restoration and protection of Federal property shall be borne fully by the Federal Government, and that costs for restoration and protection of State, county and other publicly owned shore parks and conservation areas may be borne by Federal Government up to not more than 70 per centum, exclusive of land costs, when such areas include a zone which excludes permanent human habitation, include recreational beaches, satisfy criteria for conservation and development of natural resources, extend landward enough to include natural features to protect uplands, and provide essentially full park facilities for public use, all of which meet with approval of Chief of Engineers.

Subsec. (e). Pub. L. 87-874, §103(a)(3), required approval of plans by Chief of Engineers in case of a small project under section 426g of this title.

1956—Act July 28, 1956, extended assistance to privately owned shores, to include shores of Territories

and possessions, substituted “restoration” for “improvement”, defined “construction”, and struck out provisions which authorized Federal aid toward the repair and protection of seawalls constructed by political subdivisions to protect important public highways.

Statutory Notes and Related Subsidiaries

BEACH RECREATION

Pub. L. 106-541, title II, §220, Dec. 11, 2000, 114 Stat. 2596, provided that: “Not later than 1 year after the date of enactment of this Act [Dec. 11, 2000], the Secretary shall develop and implement procedures to ensure that all of the benefits of a beach restoration project, including those benefits attributable to recreation, hurricane and storm damage reduction, and environmental protection and restoration, are displayed in reports for such projects.”

SHORE MANAGEMENT PROGRAM

Pub. L. 106-53, title II, §213, Aug. 17, 1999, 113 Stat. 291, required the Secretary to review the implementation of the Corps of Engineers shore management program, with particular attention to inconsistencies in implementation among the divisions and districts of the Corps of Engineers and complaints by or potential inequities regarding property owners in the Savannah District during the 5-year period preceding Aug. 17, 1999, and directed the Secretary to submit to Congress a report of the review by Aug. 17, 1999.

REPORT ON SHORES OF THE UNITED STATES

Pub. L. 106-53, title II, §215(c), Aug. 17, 1999, 113 Stat. 293, required the Secretary to report to Congress, not later than 3 years after Aug. 17, 1999, on the state of the shores of the United States and specified the contents of such report and the use of specific location data.

REPORT TO CONGRESS ON SHORELINE PROTECTION PROGRAMS

Pub. L. 101-640, title III, §309, Nov. 28, 1990, 104 Stat. 4638, provided that not later than 1 year after Nov. 28, 1990, the Secretary was to transmit to Congress a report on the advisability of not participating in the planning, implementation, or maintenance of any beach stabilization or renourishment project involving Federal funds unless the State in which the proposed project would be located had established or committed to establish a beach front management program, which included specified restrictions and other regulatory provisions.

§ 426e-1. Shore protection projects

(a) In general

In accordance with the Act of July 3, 1930 (33 U.S.C. 426) of this title, and notwithstanding administrative actions, it is the policy of the United States to promote beach nourishment for the purposes of flood damage reduction and hurricane and storm damage reduction and related research that encourage the protection, restoration, and enhancement of sandy beaches, including beach restoration and periodic beach renourishment for a period of 50 years, on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprises.

(b) Preference

In carrying out the policy under subsection (a), preference shall be given to—

- (1) areas in which there has been a Federal investment of funds for the purposes described in subsection (a); and
- (2) areas with respect to which the need for prevention or mitigation of damage to shores

and beaches is attributable to Federal navigation projects or other Federal activities.

(c) Applicability

The Secretary shall apply the policy under subsection (a) to each shore protection and beach renourishment project (including shore protection and beach renourishment projects constructed before November 8, 2007).

(Pub. L. 110-114, title II, §2018, Nov. 8, 2007, 121 Stat. 1077.)

Editorial Notes

REFERENCES IN TEXT

The Act of July 3, 1930, referred to in subsec. (a), is act July 3, 1930, ch. 847, 46 Stat. 918. For complete classification of this Act to the Code, see Tables.

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 110-114, set out as a note under section 2201 of this title.

§ 426e-2. Clarification of munition disposal authorities

(a) In general

The Secretary may, at full Federal expense, implement any response action the Secretary determines to be necessary at a site where—

- (1) the Secretary has carried out a project under civil works authority of the Secretary that includes placing sand on a beach; and
- (2) as a result of the project described in paragraph (1), military munitions that were originally released as a result of Department of Defense activities are deposited on the beach, posing a threat to human health or the environment.

(b) Response action funding

A response action described in subsection (a) shall be reimbursed from amounts made available to the agency within the Department of Defense responsible for the original release of the munitions.

(Pub. L. 113-121, title I, §1027, June 10, 2014, 128 Stat. 1230; Pub. L. 114-322, title I, §1154, Dec. 16, 2016, 130 Stat. 1663.)

Editorial Notes

AMENDMENTS

2016—Subsec. (a). Pub. L. 114-322, §1154(1), inserted “, at full Federal expense,” after “The Secretary may” in introductory provisions.

Subsec. (b). Pub. L. 114-322, §1154(2), substituted “reimbursed” for “funded”.

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

§ 426e-3. Coastal storm damage reduction contracts

For any project for coastal storm damage reduction, the Secretary may seek input from a

non-Federal interest for a project that may be affected by the timing of the coastal storm damage reduction activities under the project, in order to minimize, to the maximum extent practicable, any negative effects resulting from the timing of those activities.

(Pub. L. 116-260, div. AA, title I, §140, Dec. 27, 2020, 134 Stat. 2652.)

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of div. AA of Pub. L. 116-260, set out as a note under section 2201 of this title.

§ 426f. Reimbursements

(a) In general

The Secretary is authorized to reimburse non-Federal interests for work done by them, after initiation of the survey studies which form the basis for the project or separable element of the project, on authorized projects or separable elements which individually do not exceed \$1,000,000 in total cost: *Provided*, That the work which may have been done on the projects or separable elements is approved by the Chief of Engineers as being in accordance with the authorized projects or separable elements: *Provided further*, That such reimbursement shall be subject to appropriations applicable thereto or funds available therefor and shall not take precedence over other pending projects or separable elements of higher priority for improvements.

(b) Agreements

(1) Requirement

After authorization of reimbursement by the Secretary under this section, and before commencement of construction, of a shore protection project, the Secretary shall enter into a written agreement with the non-Federal interest with respect to the project or separable element.

(2) Terms

The agreement shall—

- (A) specify the life of the project; and
- (B) ensure that the Federal Government and the non-Federal interest will cooperate in carrying out the project or separable element.

(Aug. 13, 1946, ch. 960, §2, 60 Stat. 1056; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; July 28, 1956, ch. 768, 70 Stat. 703; Pub. L. 87-874, title I, §103(a)(4), Oct. 23, 1962, 76 Stat. 1178; Pub. L. 104-303, title II, §227(c)(1), Oct. 12, 1996, 110 Stat. 3699.)

Editorial Notes

AMENDMENTS

1996—Pub. L. 104-303 inserted section catchline, designated existing provisions as subsec. (a), inserted heading, substituted “Secretary” for “Secretary of the Army” and “non-Federal interests” for “local interests”, inserted “or separable element of the project” after “project”, inserted “or separable elements” after “projects” wherever appearing, and added subsec. (b).

1962—Pub. L. 87-874 substituted provisions which authorize the Secretary of the Army to reimburse local

interests for work done on authorized projects which individually do not exceed \$1,000,000 in cost, and provide that such reimbursement shall be subject to applicable appropriations or available funds and not take priority over pending projects of higher priority, for provisions which authorized the Chief of Engineers to cause to be paid to the political subdivision involved the amount authorized by Congress.

1956—Act July 28, 1956, substituted “or other political subdivision involved” for “or political subdivision”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

§ 426g. Storm and hurricane restoration and impact minimization program

(a) Construction of small shore and beach restoration and protection projects

(1) In general

The Secretary may carry out a program for the construction of small shore and beach restoration and protection projects not specifically authorized by Congress that otherwise comply with section 426e of this title if the Secretary determines that such construction is advisable.

(2) Local cooperation

The local cooperation requirement of section 426e of this title shall apply to a project under this section.

(3) Completeness

A project under this subsection—

- (A) shall be complete; and
- (B) shall not commit the United States to any additional improvement to ensure the successful operation of the project; except for participation in periodic beach nourishment in accordance with—
 - (i) section 426e of this title; and
 - (ii) the procedure for projects authorized after submission of a survey report.

(b) National shoreline erosion control development and demonstration program

(1) In general

The Secretary shall conduct under the program authorized by subsection (a) a national shoreline erosion control development and demonstration program (referred to in this section as the “demonstration program”).

(2) Requirements**(A) In general**

The demonstration program shall include provisions for—

- (i) projects consisting of planning, design, construction, and monitoring of prototype engineered and native and naturalized vegetative shoreline erosion control devices and methods;
- (ii) monitoring of the applicable prototypes;
- (iii) detailed engineering and environmental reports on the results of each project carried out under the demonstration¹ program; and
- (iv) technology transfers, as appropriate, to private property owners, State and local entities, nonprofit educational institutions, and nongovernmental organizations.

(B) Determination of feasibility

A project under the demonstration program shall not be carried out until the Secretary determines that the project is feasible.

(C) Emphasis

A project under the demonstration program shall emphasize, to the maximum extent practicable—

- (i) the development and demonstration of innovative technologies;
- (ii) efficient designs to prevent erosion at a shoreline site, taking into account the lifecycle cost of the design, including cleanup, maintenance, and amortization;
- (iii) new and enhanced shore protection project design and project formulation tools the purposes of which are to improve the physical performance, and lower the lifecycle costs, of the projects;
- (iv) natural designs, including the use of native and naturalized vegetation or temporary structures that minimize permanent structural alterations to the shoreline;
- (v) the avoidance of negative impacts to adjacent shorefront communities;
- (vi) in areas with substantial residential or commercial interests located adjacent to the shoreline, designs that do not impair the aesthetic appeal of the interests;
- (vii) the potential for long-term protection afforded by the technology; and
- (viii) recommendations developed from evaluations of the program established under the Shoreline Erosion Control Demonstration Act of 1974 (42 U.S.C. 1962-5 note),² including—
 - (I) adequate consideration of the subgrade;
 - (II) proper filtration;
 - (III) durable components;
 - (IV) adequate connection between units; and
 - (V) consideration of additional relevant information.

(D) Sites**(i) In general**

Each project under the demonstration program may be carried out at—

- (I) a privately owned site with substantial public access; or
- (II) a publicly owned site on open coast or in tidal waters.

(ii) Selection

The Secretary shall develop criteria for the selection of sites for projects under the demonstration program, including criteria based on—

- (I) a variety of geographic and climatic conditions;
- (II) the size of the population that is dependent on the beaches for recreation or the protection of private property or public infrastructure;
- (III) the rate of erosion;
- (IV) significant natural resources or habitats and environmentally sensitive areas; and
- (V) significant threatened historic structures or landmarks.

(3) Consultation

The Secretary shall carry out the demonstration program in consultation with—

- (A) the Secretary of Agriculture, particularly with respect to native and naturalized vegetative means of preventing and controlling shoreline erosion;
- (B) Federal, State, and local agencies;
- (C) private organizations;
- (D) the Coastal Engineering Research Center established by section 426-1 of this title; and
- (E) applicable university research facilities.

(4) Completion of demonstration

After carrying out the initial construction and evaluation of the performance and cost of a project under the demonstration program, the Secretary may—

- (A) amend, at the request of a non-Federal interest of the project, the partnership agreement for a federally authorized shore protection project in existence on the date on which initial construction of the project under the demonstration program is complete to incorporate the project constructed under the demonstration program as a feature of the shore protection project, with the future cost sharing of the project constructed under the demonstration program to be determined by the project purposes of the shore protection project; or
- (B) transfer all interest in and responsibility for the completed project constructed under the demonstration program to a non-Federal interest or another Federal agency.

(5) Agreements

The Secretary may enter into a partnership agreement with the non-Federal interest or a cooperative agreement with the head of another Federal agency under the demonstration program—

- (A) to share the costs of construction, operation, maintenance, and monitoring of a project under the demonstration program;

¹ So in original. Probably should be "demonstration".

² See References in Text note below.

(B) to share the costs of removing the project, or element of the project if the Secretary determines that the project or element of the project is detrimental to public or private property, public infrastructure, or public safety; or

(C) to specify ownership of the completed project if the Secretary determines that the completed project will not be part of a Corps of Engineers project.

(6) Report

Not later than December 31, 2008, and every 3 years thereafter, the Secretary shall prepare and submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing—

(A) the activities carried out and accomplishments made under the demonstration program since the previous report under this paragraph; and

(B) any recommendations of the Secretary relating to the program.

(c) Authorization of appropriations

(1) In general

Subject to paragraph (2), the Secretary may expend, from any appropriations made available to the Secretary for the purpose of carrying out civil works, not more than \$37,500,000 during any fiscal year to pay the Federal share of the costs of construction of small shore and beach restoration and protection projects or small projects under this section.

(2) Limitation

The total amount expended for a project under this section shall—

(A) be sufficient to pay the cost of Federal participation in the project (including periodic nourishment as provided for under section 426e of this title), as determined by the Secretary; and

(B) be not more than \$10,000,000.

(Aug. 13, 1946, ch. 960, § 3, 60 Stat. 1056; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; July 28, 1956, ch. 768, 70 Stat. 703; Pub. L. 87-874, title I, § 103(a)(4), Oct. 23, 1962, 76 Stat. 1178; Pub. L. 89-298, title III, § 310(b), Oct. 27, 1965, 79 Stat. 1095; Pub. L. 91-611, title I, § 112(b), Dec. 31, 1970, 84 Stat. 1821; Pub. L. 99-662, title IX, § 915(e), Nov. 17, 1986, 100 Stat. 4191; Pub. L. 104-303, title II, § 227(e)(2)(C), Oct. 12, 1996, 110 Stat. 3703; Pub. L. 106-53, title II, § 226, Aug. 17, 1999, 113 Stat. 298; Pub. L. 110-114, title II, § 2038(a), Nov. 8, 2007, 121 Stat. 1097; Pub. L. 114-322, title I, § 1167, Dec. 16, 2016, 130 Stat. 1670; Pub. L. 115-270, title I, § 1157(a), Oct. 23, 2018, 132 Stat. 3793.)

Editorial Notes

REFERENCES IN TEXT

The Shoreline Erosion Control Demonstration Act of 1974, referred to in subsec. (b)(2)(C)(viii), is Pub. L. 93-251, title I, § 54, Mar. 7, 1974, 88 Stat. 26, formerly set out as a note under section 1962d-5 of Title 42, The Public Health and Welfare.

AMENDMENTS

2018—Subsec. (c)(1). Pub. L. 115-270 substituted “\$37,500,000” for “\$30,000,000”.

2016—Subsec. (c)(2)(B). Pub. L. 114-322 substituted “\$10,000,000” for “\$5,000,000”.

2007—Pub. L. 110-114 amended section generally. Prior to amendment, section related to authorization of small shore and beach restoration and protection projects not specifically authorized by Congress.

1999—Pub. L. 106-53 substituted “\$3,000,000” for “\$2,000,000”.

1996—Pub. L. 104-303 substituted “Secretary” for “Secretary of the Army”.

1986—Pub. L. 99-662 substituted “\$30,000,000” for “\$25,000,000” and “\$2,000,000” for “\$1,000,000”.

1970—Pub. L. 91-611 increased authorized annual allotment for Federal share of project construction costs from \$10,000,000 to \$25,000,000 and the limitation on allotment for any single project from \$500,000 to \$1,000,000.

1965—Pub. L. 89-298 increased authorized annual allotment for Federal share of project construction costs from \$3,000,000 to \$10,000,000 and the limitation on allotment for any single project from \$400,000 to \$500,000.

1962—Pub. L. 87-874 substituted provisions which authorize the Secretary of the Army to undertake small shore and beach projects not specifically authorized by Congress, which otherwise comply with section 426e of this title, and to allot from any civil works appropriations hereafter made, an amount not to exceed \$3,000,000 for the Federal share of such projects in any one fiscal year, provide that no such single project shall be allotted more than \$400,000, including periodic nourishment, that provisions of local cooperation shall apply, and that the work shall be complete and not commit the United States to any additional improvement except for periodic beach nourishment, and as may result from procedure applying to projects authorized after submission of survey reports, for provisions which permitted the Chief of Engineers to make advance payments, not exceeding the United States pro rata part of the value of the labor and materials actually put in, and to undertake construction of restoration and protective works under sections 426e to 426h of this title upon the request of, and contribution of funds by, the interested political subdivision.

1956—Act July 28, 1956, substituted “restoration and protective works under sections 426e to 426h of this title” for “improvement and protective works”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-662, title IX, § 915(i), Nov. 17, 1986, 100 Stat. 4191, provided that: “The amendments made by this section [amending this section and sections 426i, 577, 603a, 701g, 701r, and 701s of this title] shall not apply to any project under contract for construction on the date of enactment of this Act [Nov. 17, 1986].”

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91-611, title I, § 112(c), Dec. 31, 1970, 84 Stat. 1821, provided that: “The amendments made by this section [amending this section and section 577 of this title] shall not apply to any project under contract for construction on the date of enactment of this Act [Dec. 31, 1970].”

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of the Army and other offices and officers of Department of

the Army under section 401 of this title to extent that they relate generally to location and clearances of bridges and causeways in navigable waters of United States transferred to and vested in Secretary of Transportation by Pub. L. 89-670, §6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941, which created Department of Transportation. Pub. L. 97-449 amended section 401 of this title to reflect transfer made by section 6(g)(6)(A) of Pub. L. 89-670, and repealed section 6(g)(6)(A).

HURRICANE AND STORM DAMAGE PROTECTION PROGRAM

Pub. L. 115-270, title I, §1112, Oct. 23, 2018, 132 Stat. 3775, provided that:

“(a) IN GENERAL.—The Secretary [of the Army] is authorized to carry out a pilot program to award single contracts for more than one authorized hurricane and storm damage reduction project in a geographical region, including projects across more than one Corps of Engineers district, if the Secretary determines that the contract provides cost savings compared to the awarding of such work on a project-by-project basis.

“(b) PROJECT SELECTION.—In carrying out the pilot program under subsection (a), the Secretary shall consult with relevant State agencies in selecting projects.

“(c) CRITERIA.—In carrying out the pilot program under subsection (a), the Secretary shall establish criteria and other considerations that—

“(1) foster Federal, State, and local collaboration;

“(2) evaluate the performance of projects being carried out under a single contract with respect to whether such projects yield any regional or multi-district benefits; and

“(3) include other criteria and considerations that the Secretary determines to be appropriate.

“(d) REPORT.—Not later than 1 year after the date of enactment of this Act [Oct. 23, 2018], and annually thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes findings and recommendations of the Secretary with respect to the projects completed under the pilot program carried out under subsection (a).

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$75,000,000.

“(f) TERMINATION.—The authority of the Secretary to enter into contracts pursuant to the pilot program carried out under subsection (a) shall expire on the date that is 10 years after the date of enactment of this Act.”

§ 426g-1. State and regional plans

The Secretary may—

(1) cooperate with any State in the preparation of a comprehensive State or regional plan for the conservation of coastal resources located within the boundaries of the State;

(2) encourage State participation in the implementation of the plan; and

(3) submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out the plan.

(Aug. 13, 1946, ch. 960, §4, as added Pub. L. 104-303, title II, §227(d)(2), Oct. 12, 1996, 110 Stat. 3700.)

Editorial Notes

PRIOR PROVISIONS

A prior section 4 of act Aug. 13, 1946, was renumbered section 5 of that act, and was classified to section 426h of this title prior to repeal by Pub. L. 104-303.

§ 426h. Repealed. Pub. L. 110-114, title II, § 2038(b), Nov. 8, 2007, 121 Stat. 1100

Section, act Aug. 13, 1946, ch. 960, §5, as added Pub. L. 104-303, title II, §227(e)(1), Oct. 12, 1996, 110 Stat. 3700;

amended Pub. L. 106-53, title V, §581, Aug. 17, 1999, 113 Stat. 375; Pub. L. 109-234, title II, §2305, June 15, 2006, 120 Stat. 456; Pub. L. 110-161, div. C, title I, §113, Dec. 26, 2007, 121 Stat. 1944, related to national shoreline erosion control development and demonstration program.

A prior section 426h, acts Aug. 13, 1946, ch. 960, §5, formerly §4, 60 Stat. 1057; July 28, 1956, ch. 768, 70 Stat. 703; renumbered §5, Oct. 12, 1996, Pub. L. 104-303, title II, §227(d)(1), 110 Stat. 3700, defined the word “shores” as used in sections 426e to 426h of this title, prior to repeal by Pub. L. 104-303, title II, §227(e)(1), Oct. 12, 1996, 110 Stat. 3700.

§ 426h-1. Definitions

In sections 426e and 426f to 426h-1 of this title, the following definitions apply:

(1) Erosion control program

The term “erosion control program” means the national shoreline erosion control development and demonstration program established under this section.

(2) Secretary

The term “Secretary” means the Secretary of the Army.

(3) Separable element

The term “separable element” has the meaning provided by section 2213(f) of this title.

(4) Shore

The term “shore” includes each shoreline of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, and lakes, estuaries, and bays directly connected therewith.

(5) Shore protection project

The term “shore protection project” includes a project for beach nourishment, including the replacement of sand.

(Aug. 13, 1946, ch. 960, §6, as added Pub. L. 104-303, title II, §227(e)(1), Oct. 12, 1996, 110 Stat. 3702.)

§ 426i. Shore damage prevention or mitigation

(a) In general

The Secretary of the Army is authorized to investigate, study, plan, and implement structural and nonstructural measures for the prevention or mitigation of shore damages attributable to Federal navigation works and shore damage attributable to the Atlantic Intracoastal Waterway and the Gulf Intracoastal Waterway, if a non-Federal public body agrees to operate and maintain such measures, and, in the case of interests in real property acquired in conjunction with nonstructural measures, to operate and maintain the property for public purposes in accordance with regulations prescribed by the Secretary.

(b) Cost sharing

The costs of implementing measures, including a study, shall be cost-shared in the same proportion as the cost-sharing provisions applicable to construction of the project causing the shore damage.

(c) Requirement for specific authorization

No such project shall be initiated without specific authorization by Congress if the Federal first cost exceeds \$12,500,000.

(d) Coordination

The Secretary shall—

(1) coordinate the implementation of the measures under this section with other Federal and non-Federal shore protection projects in the same geographic area; and

(2) to the extent practicable, combine mitigation projects with other shore protection projects in the same area into a comprehensive regional project.

(e) Reimbursement for feasibility studies

Beginning on December 16, 2016, in any case in which the Secretary implements a project under this section, the Secretary shall reimburse or credit the non-Federal interest for any amounts contributed for the study evaluating the damage in excess of the non-Federal share of the costs, as determined under subsection (b).

(Pub. L. 90-483, title I, § 111, Aug. 13, 1968, 82 Stat. 735; Pub. L. 99-662, title IX, §§ 915(f), 940, Nov. 17, 1986, 100 Stat. 4191, 4199; Pub. L. 106-53, title II, § 214, Aug. 17, 1999, 113 Stat. 291; Pub. L. 113-121, title I, § 1030(c), June 10, 2014, 128 Stat. 1232; Pub. L. 114-322, title I, § 1169, Dec. 16, 2016, 130 Stat. 1671; Pub. L. 115-270, title I, § 1157(c), Oct. 23, 2018, 132 Stat. 3794.)

Editorial Notes**AMENDMENTS**

2018—Subsec. (c). Pub. L. 115-270 substituted “\$12,500,000” for “\$10,000,000”.

2016—Subsec. (b). Pub. L. 114-322, § 1169(1), substituted “measures, including a study, shall be cost-shared in the same proportion as the cost-sharing provisions applicable to construction of the project” for “measures under this section shall be cost-shared in the same proportion as the cost-sharing provisions applicable to the project”.

Subsec. (e). Pub. L. 114-322, § 1169(2), added subsec. (e).

2014—Subsec. (c). Pub. L. 113-121 substituted “\$10,000,000” for “\$5,000,000”.

1999—Pub. L. 106-53 designated first sentence as subsec. (a), inserted heading, and inserted “and shore damage attributable to the Atlantic Intracoastal Waterway and the Gulf Intracoastal Waterway” after “navigation works”, designated second sentence as subsec. (b) and inserted heading, and designated third sentence as subsec. (c), inserted heading, and substituted “\$5,000,000” for “\$2,000,000”, and added subsec. (d).

1986—Pub. L. 99-662, § 940, amended section generally. Prior to amendment, section read as follows: “The Secretary of the Army, acting through the Chief of Engineers, is authorized to investigate, study, and construct projects for the prevention or mitigation of shore damages attributable to Federal navigation works. The cost of installing, operating, and maintaining such projects shall be borne entirely by the United States. No such project shall be constructed without specific authorization by Congress if the estimated first cost exceeds \$2,000,000.”

Pub. L. 99-662, § 915(f), substituted “\$2,000,000” for “\$1,000,000”.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by section 915(f) of Pub. L. 99-662 not applicable to any project under contract for construction on Nov. 17, 1986, see section 915(i) of Pub. L. 99-662, set out as a note under section 426g of this title.

COASTAL EROSION

Pub. L. 115-270, title I, § 1172, Oct. 23, 2018, 132 Stat. 3799, provided that:

“(a) IN GENERAL.—Pursuant to section 111 of the River and Harbor Act of 1968 (33 U.S.C. 426i), the Secretary [of the Army] shall, to the maximum extent practicable, complete operation and maintenance re-nourishment to mitigate coastal erosion attributed to Federal project structures in the upper northeast United States.

“(b) PROJECT SELECTION.—In carrying out the work under subsection (a), the Secretary shall—

“(1) identify and carry out not more than five projects—

“(A) located in any of the States of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, or New York; and

“(B) for which a feasibility study has been completed by December 31, 2019, that includes findings that a Federal project structure is interrupting the natural flow of sediment and causing coastal erosion; and

“(2) consult with relevant State agencies in selecting projects.”

§ 426i-1. Repealed. Pub. L. 113-121, title I, § 1014(c)(2), June 10, 2014, 128 Stat. 1222

Section, Pub. L. 102-580, title II, § 206, Oct. 31, 1992, 106 Stat. 4828; Pub. L. 104-303, title II, § 227(c)(2), Oct. 12, 1996, 110 Stat. 3700, related to construction of shoreline protection projects by non-Federal interests.

§ 426i-2. National coastal data bank**(1) Establishment of data bank**

Not later than 2 years after August 17, 1999, the Secretary shall establish a national coastal data bank containing data on the geophysical and climatological characteristics of the shores of the United States.

(2) Content

To the extent practicable, the national coastal data bank shall include data regarding current and predicted shore positions, information on federally authorized shore protection projects, and data on the movement of sand along the shores of the United States, including impediments to such movement caused by natural and manmade features.

(3) Access

The national coastal data bank shall be made readily accessible to the public.

(Pub. L. 106-53, title II, § 215(d), Aug. 17, 1999, 113 Stat. 293.)

Statutory Notes and Related Subsidiaries**“SECRETARY” DEFINED**

Secretary means the Secretary of the Army, see section 2 of Pub. L. 106-53, set out as a note under section 2201 of this title.

§ 426j. Repealed. Pub. L. 110-114, title II, § 2037(b)(1), Nov. 8, 2007, 121 Stat. 1096

Section, Pub. L. 94-587, § 145, Oct. 22, 1976, 90 Stat. 2931; Pub. L. 99-662, title IX, § 933, Nov. 17, 1986, 100 Stat. 4197; Pub. L. 100-676, § 35, Nov. 17, 1988, 102 Stat. 4031; Pub. L. 102-580, title II, § 207, Oct. 31, 1992, 106 Stat. 4829; Pub. L. 106-53, title II, § 217(a), Aug. 17, 1999, 113 Stat. 294, related to placement on State beaches of sand dredged in constructing and maintaining navigation inlets and channels adjacent to such beaches.

Statutory Notes and Related Subsidiaries**EXISTING PROJECTS**

Pub. L. 110-114, title II, § 2037(b)(2), Nov. 8, 2007, 121 Stat. 1096, provided that: “The Secretary [of the Army]

may complete any project being carried out under section 145 of the Water Resources Development Act of 1976 [this section] on the day before the date of enactment of this Act [Nov. 8, 2007].”

§ 426k. Five year demonstration program to temporarily increase diversion of water from Lake Michigan at Chicago, Illinois

(a) Authorization of Secretary of the Army; purpose; amounts of increase; incremental accomplishment; effects on Illinois Waterway; responsibilities for development, implementation, and supervision

In order to alleviate water damage on the shoreline of Lake Michigan and others of the Great Lakes during periods of abnormally high water levels in the Great Lakes, and to improve the water quality of the Illinois Waterway, the Secretary of the Army, acting through the Chief of Engineers, is authorized to carry out a five-year demonstration program to temporarily increase the diversion of water from Lake Michigan at Chicago, Illinois, for the purpose of testing the practicability of increasing the average annual diversion from the present limit of three thousand two hundred cubic feet per second to ten thousand cubic feet per second. The demonstration program will increase the controllable diversion by various amounts calculated to raise the average annual diversion above three thousand two hundred cubic feet per second up to ten thousand cubic feet per second. The increase in diversion rate will be accomplished incrementally and will take into consideration the effects of such increase on the Illinois Waterway. The program will be developed by the Chief of Engineers in cooperation with the State of Illinois and the Metropolitan Sanitary District of Greater Chicago. The program will be implemented by the State of Illinois and the Metropolitan Sanitary District of Greater Chicago under the supervision of the Chief of Engineers.

(b) Establishment of monthly controllable diversion rates; average annual level of Lake Michigan and total diversion for succeeding accounting year

During the demonstration program a controllable diversion rate will be established for each month calculated to establish an annual average diversion from three thousand two hundred cubic feet per second to not more than ten thousand cubic feet per second. When the level of Lake Michigan is below its average level, the total diversion for the succeeding accounting year shall not exceed three thousand two hundred cubic feet per second on an annual basis. The average level of Lake Michigan will be based upon the average monthly level for the period from 1900 to 1975.

(c) River stages approaching bankfull conditions on Illinois Waterway or Mississippi River or further increased diversion adversely affecting St. Lawrence Seaway water levels: limitation on diversion

When river stages approach or are predicted to approach bankfull conditions at the established flood warning stations on the Illinois Waterway or the Mississippi River, or when further increased diversion of water from Lake Michigan

would adversely affect water levels necessary for navigational requirements of the Saint Lawrence Seaway in its entirety throughout the Saint Lawrence River and Great Lakes-Saint Lawrence Seaway, water shall not be diverted directly from Lake Michigan at the Wilmette, O'Brien, or Chicago River control structures other than as necessary for navigational requirements.

(d) Additional study and demonstration program: determination of effects on Great Lakes levels and Illinois Waterway water quality and susceptibility to additional flooding and investigation of other adverse or beneficial impacts; report and recommendations to Congress

The Chief of Engineers shall conduct a study and a demonstration program to determine the effects of the increased diversion on the levels of the Great Lakes, on the water quality of the Illinois Waterway, and on the susceptibility of the Illinois Waterway to additional flooding. The study and demonstration program will also investigate any adverse or beneficial impacts which result from this section. The Chief of Engineers, at the end of five years after October 22, 1976, will submit to the Congress the results of this study and demonstration program including recommendations whether to continue this authority or to change the criteria stated in subsection (b) of this section.

(e) “Controllable diversion” defined

For purposes of this section, controllable diversion is defined as that diversion at Wilmette, O'Brien, and Chicago River control structures which is not attributable to leakage or which is not necessary for navigational requirements.

(Pub. L. 94-587, §166, Oct. 22, 1976, 90 Stat. 2934.)

§ 426L. Protection of Lake Ontario

(a) Plan for shoreline protection and beach erosion control; report to Congress

The Secretary of the Army, acting through the Chief of Engineers, is directed to develop a plan for shoreline protection and beach erosion control along Lake Ontario, and report on such plan to the Congress as soon as practicable. Such report shall include recommendations on measures of protection and proposals for equitable cost sharing, together with recommendations for regulating the level of Lake Ontario to assure maximum protection of the natural environment and to hold shoreline damage to a minimum.

(b) Minimization of damage and erosion to Lake Ontario shoreline

Until the Congress receives and acts upon the report required under subsection (a) of this section, all Federal agencies having responsibilities affecting the level of Lake Ontario shall, consistent with existing authority, make every effort to discharge such responsibilities in a manner so as to minimize damage and erosion to the shoreline of Lake Ontario.

(c) Authorization of appropriations

There is authorized to be appropriated to carry out this section \$2,000,000.

(d) Short title

This section may be cited as the “Lake Ontario Protection Act of 1976.”

(Pub. L. 94-587, §180, Oct. 22, 1976, 90 Stat. 2939.)

§ 426m. Collection and removal of drift and debris from publicly maintained commercial boat harbors and adjacent land and water areas

(a) Congressional findings

The Congress finds that drift and debris on or in publicly maintained commercial boat harbors and the land and water areas immediately adjacent thereto threaten navigational safety, public health, recreation, and the harborfront environment.

(b) Responsibility of Secretary of the Army for development of projects; project undertakings exempt from specific Congressional approval

(1) The Secretary of the Army, acting through the Chief of Engineers, shall be responsible for developing projects for the collection and removal of drift and debris from publicly maintained commercial boat harbors and from land and water areas immediately adjacent thereto.

(2) The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake projects developed under paragraph (1) of this subsection without specific congressional approval when the total Federal cost for the project is less than \$400,000.

(c) Federal share of costs; responsibility of non-Federal interests in future project development to recover cost or repair sources

The Federal share of the cost of any project developed pursuant to subsection (b) of this section shall be two-thirds of the cost of the project. The remainder of such costs shall be paid by the State, municipality, or other political subdivision in which the project is to be located, except that any costs associated with the collections and removal of drift and debris from federally owned lands shall be borne by the Federal Government. Non-Federal interests in future project development under subsection (b) of this section shall be required to recover the full cost of drift or debris removal from any identified owner of piers or other potential sources of drift or debris, or to repair such sources so that they no longer create a potential source of drift or debris.

(d) Responsibility for providing lands, easements, and right-of-way necessary for projects; agreement to maintain projects and hold United States free from damages; regulation of project area following project completion; technical advice

Any State, municipality, or other political subdivision where any project developed pursuant to subsection (b) of this section is located shall provide all lands, easements, and right-of-way necessary for the project, including suitable access and disposal areas, and shall agree to maintain such projects and hold and save the United States free from any damages which may result from the non-Federal sponsor's performance of, or failure to perform, any of its required

responsibilities of cooperation for the project. Non-Federal¹ interest shall agree to regulate any project area following project completion so that such area will not become a future source of drift and debris. The Chief of Engineers shall provide technical advice to non-Federal interests on the implementation of this subsection.

(e) Definitions

For the purposes of this section—

(1) the term “drift” includes any buoyant material that, when floating in the navigable waters of the United States, may cause damage to a commercial or recreational vessel; and

(2) the term “debris” includes any abandoned or dilapidated structure or any sunken vessel or other object that can reasonably be expected to collapse or otherwise enter the navigable waters of the United States as drift within a reasonable period.

(f) Authorization of appropriations

There is authorized to be appropriated to carry out this section such sums as may be necessary for fiscal years beginning after September 30, 1986.

(Pub. L. 94-587, §202, Oct. 22, 1976, 90 Stat. 2945; Pub. L. 99-662, title XI, §1129(a), Nov. 17, 1986, 100 Stat. 4246.)

Editorial Notes**AMENDMENTS**

1986—Subsec. (f). Pub. L. 99-662 amended subsec. (f) generally, substituting “such sums as may be necessary for fiscal years beginning after Sept. 30, 1986” for “not to exceed \$4,000,000 per fiscal year for fiscal years 1978 and 1979”.

§ 426n. Technical assistance to States and local governments; cost sharing

(a) Upon request of the Governor of a State, or the appropriate official of local government, the Secretary is authorized to provide designs, plans, and specifications, and such other technical assistance as he deems advisable to such State or local government for its use in carrying out—

(1) projects for removing accumulated snags and other debris, and clearing and straightening channels in navigable streams and tributaries thereof; and

(2) projects for renovating navigable streams and tributaries thereof by means of predominantly nonstructural methods judged by the Secretary to be cost effective, for the purpose of improved drainage, water quality, and habitat diversity.

(b) The non-Federal share of the cost of any designs, plans, specifications or technical assistance provided under subsection (a) shall be 50 percent.

(Pub. L. 99-662, title IX, §942, Nov. 17, 1986, 100 Stat. 4199.)

Statutory Notes and Related Subsidiaries**“SECRETARY” DEFINED**

Secretary means the Secretary of the Army, see section 2201 of this title.

¹ So in original.

§ 426o. Great Lakes material disposal

In planning and implementing any navigation project (including maintenance thereof) on the Great Lakes and adjacent waters, the Secretary shall consult and cooperate with concerned States in selecting disposal areas for dredged material which is suitable for beach nourishment.

(Pub. L. 99-662, title XI, § 1154, Nov. 17, 1986, 100 Stat. 4256.)

Statutory Notes and Related Subsidiaries**“SECRETARY” DEFINED**

Secretary means the Secretary of the Army, see section 2201 of this title.

§ 426o-1. Great Lakes dredging levels adjustment**(a) Definition of Great Lake**

In this section, the term “Great Lake” means Lake Superior, Lake Michigan, Lake Huron (including Lake St. Clair), Lake Erie, and Lake Ontario (including the St. Lawrence River to the 45th parallel of latitude).

(b) Dredging levels

In operating and maintaining Federal channels and harbors of, and the connecting channels between, the Great Lakes, the Secretary shall conduct such dredging as is necessary to ensure minimal operation depths consistent with the original authorized depths of the channels and harbors when water levels in the Great Lakes are, or are forecast to be, below the International Great Lakes Datum of 1985.

(Pub. L. 106-541, title III, § 343, Dec. 11, 2000, 114 Stat. 2613.)

Statutory Notes and Related Subsidiaries**“SECRETARY” DEFINED**

Secretary means the Secretary of the Army, see section 2 of Pub. L. 106-541, set out as a note under section 2201 of this title.

§ 426o-2. Great Lakes navigation and protection**(a) Great Lakes navigation**

Using available funds, the Secretary shall expedite the operation and maintenance, including dredging, of the navigation features of the Great Lakes and Connecting Channels for the purpose of supporting commercial navigation to authorized project depths.

(b) Great Lakes pilot project

Using available funds, the Director of the Animal and Plant Health Inspection Service, in coordination with the Secretary, the Administrator of the Environmental Protection Agency, the Commandant of the Coast Guard, and the Director of the United States Fish and Wildlife Service, shall carry out a pilot project, on an emergency basis, to control and prevent further spreading of viral hemorrhagic septicemia in the Great Lakes and Connecting Channels.

(c) Great Lakes and Connecting Channels defined

In this section, the term “Great Lakes and Connecting Channels” includes Lakes Superior,

Huron, Michigan, Erie, and Ontario, all connecting waters between and among such lakes used for commercial navigation, any navigation features in such lakes or waters that are a Federal operation or maintenance responsibility, and areas of the Saint Lawrence River that are operated or maintained by the Federal Government for commercial navigation.

(Pub. L. 110-114, title V, § 5014, Nov. 8, 2007, 121 Stat. 1195.)

Statutory Notes and Related Subsidiaries**“SECRETARY” DEFINED**

Secretary means the Secretary of the Army, see section 2 of Pub. L. 110-114, set out as a note under section 2201 of this title.

§ 426p. Corps of Engineers**(a) Technical and other assistance**

The Secretary of the Army may—

(1) provide emergency assistance to prevent or reduce damage attributable to high water levels in the Great Lakes, including provision of sandbags, sheeting, and stones and other armorings devices (taking account of flooding and erosion of other property which may be caused by such activity) but not including construction of permanent structures;

(2) provide technical assistance to individuals and local governments with respect to measures to prevent or reduce such damage; and

(3) compile and disseminate information on—

(A) water levels of the Great Lakes,

(B) techniques for prevention or reduction of such damage, and

(C) emergency relief available to persons who suffer economic injury attributable to high water levels in the Great Lakes.

(b) Issuance of permits**(1) Consideration of flooding and erosion**

In issuing a permit under—

(A) section 403 of this title; or

(B) section 1344 of this title;

for any activity carried out with assistance under this title, the Secretary of the Army shall take account of flooding and erosion of other property which may be caused by such activity.

(2) Bank stabilization**(A) General rule**

In issuing permits under sections 403 and 1344 of this title for a project involving dredging of any portion of the Great Lakes, the Secretary of the Army shall, if feasible, encourage for bank stabilization purposes the disposal of nonhazardous compatible sand from such project on shorelines affected by erosion.

(B) Consultation

In carrying out subparagraph (A), the Secretary of the Army shall consult affected State and local governments.

(Pub. L. 100-707, title II, § 203, Nov. 23, 1988, 102 Stat. 4712.)

Editorial Notes

REFERENCES IN TEXT

This title, referred to in subsec. (b)(1), is title II of Pub. L. 100-707, Nov. 23, 1988, 102 Stat. 4711, known as the "Great Lakes Planning Assistance Act of 1988". For complete classification of this Act to the Code, see Short Title note below and Tables.

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 100-707, title II, §201, Nov. 23, 1988, 102 Stat. 4711, provided that: "This title [enacting this section, amending sections 3501 to 3503 of Title 16, Conservation, and enacting provisions set out as notes under this section and sections 3501 and 3505 of Title 16] may be cited as the 'Great Lakes Planning Assistance Act of 1988'."

GREAT LAKES DAMAGE ASSISTANCE AND PREVENTION;
DAMAGE ASSISTANCE PROGRAM

Pub. L. 100-707, title II, §202, Nov. 23, 1988, 102 Stat. 4711, provided that:

"(a) IN GENERAL.—The Director is authorized to provide assistance to Great Lakes States in the establishment of State programs to reduce and prevent damage attributable to high water levels in the Great Lakes.

"(b) GRANTS.—Upon application by a Great Lakes State within 1 year after the date of enactment of this Act [Nov. 23, 1988], the Director may make a one-time grant to the State of not more than \$250,000 for use by the State for—

"(1) preparation of plans for mitigation, warning, emergency operations, and emergency assistance;

"(2) coordination of available State and Federal assistance;

"(3) development and implementation of non-structural measures to reduce or prevent damage attributable to high water levels in the Great Lakes, including establishment of setback requirements and other conditions on construction and reconstruction of public and private facilities, mapping of flooding zones, and technical assistance; and

"(4) assisting local governments in developing and implementing plans for nonstructural reduction and prevention of damages attributable to high water levels in the Great Lakes.

"(c) TECHNICAL ASSISTANCE.—The Director may provide technical assistance to Great Lakes States for carrying out any activity carried out with assistance under this section.

"(d) STATE MATCHING.—A State which receives a grant under this section shall match the grant with an amount of funds from non-Federal sources equal to 25 percent of the amount of the grant.

"(e) AUTHORIZATION.—There are authorized to be appropriated for making grants under this section not more than \$2,000,000 for fiscal years beginning after September 30, 1988."

GREAT LAKES DAMAGE ASSISTANCE AND PREVENTION;
DEFINITIONS

Pub. L. 100-707, title II, §205, Nov. 23, 1988, 102 Stat. 4715, as amended by Pub. L. 109-295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410, provided that: "For purposes of this title [see Short Title note above]—

"(1) DIRECTOR.—The term 'Director' means the Administrator of the Federal Emergency Management Agency.

"(2) HIGH WATER LEVELS.—The term 'high water levels' means water levels above the long-term average of water levels from 1900.

"(3) LOCAL GOVERNMENT.—The term 'local government' means a county, city, village, town, district, or other political subdivision of a Great Lakes State and an Indian tribe or authorized tribal organization.

"(4) GREAT LAKES STATE.—The term 'Great Lakes State' means Minnesota, Wisconsin, Illinois, Ohio, Michigan, Indiana, Pennsylvania, and New York."

§§ 427 to 430. Repealed. July 31, 1945, ch. 334, § 5, 59 Stat. 508

Section 427, act June 26, 1936, ch. 849, §1, 49 Stat. 1982, related to improvement and protection of beaches and defined "beach".

Section 428, act June 26, 1936, ch. 849, §2, 49 Stat. 1982, related to investigations by Beach Erosion Board and duties of Board. See section 426-1 of this title.

Section 429, act June 26, 1936, ch. 849, §3, 49 Stat. 1983, related to investigative reports by Beach Erosion Board. See section 426-1 of this title.

Section 430, act June 26, 1936, ch. 849, §4, 49 Stat. 1983, related to payment of expenses incident to investigations by Board. See section 426-1 of this title.

SUBCHAPTER II—OIL POLLUTION OF
COASTAL WATERS**§§ 431 to 437. Repealed. Pub. L. 91-224, title I, § 108, Apr. 3, 1970, 84 Stat. 113**

Section 431, acts June 7, 1924, ch. 316, §1, 43 Stat. 604; Nov. 3, 1966, Pub. L. 89-753, title II, §211(a), 80 Stat. 1252, related to the short title for this subchapter.

Section 432, acts June 7, 1924, ch. 316, §2, 43 Stat. 604; Nov. 3, 1966, Pub. L. 89-753, title II, §211(a), 80 Stat. 1252, defined "oil," "person", "coastal navigable waters of the United States", and "Secretary".

Section 433, acts June 7, 1924, ch. 316, §3, 43 Stat. 605; Nov. 3, 1966, Pub. L. 89-753, title II, §211(a), 80 Stat. 1253, related to prohibition against discharge of oil generally.

Section 434, acts June 7, 1924, ch. 316, §4, 43 Stat. 605; Nov. 3, 1966, Pub. L. 89-753, title II, §211(a), 80 Stat. 1253, related to penalties for violation of oil discharge prohibition and liability of vessel.

Section 435, act June 7, 1924, ch. 316, §5, 43 Stat. 605; 1946 Reorg. Plan No. 3, §§101-104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; act Nov. 3, 1966, Pub. L. 89-753, title II, §211(a), 80 Stat. 1254, related to revocation or suspension of licenses of officers of offending vessels.

Section 436, acts June 7, 1924, ch. 316, §7, 43 Stat. 605; Nov. 3, 1966, Pub. L. 89-753, title II, §211(a), 80 Stat. 1254, related to authorization of use of certain personnel in enforcement of this subchapter and arrest of offenders.

Section 437, acts June 7, 1924, ch. 316, §8, 43 Stat. 606; Nov. 3, 1966, Pub. L. 89-753, title II, §211(a), 80 Stat. 1254, related to affect of this subchapter on preexisting laws for preservation and protection of navigable waters.

See section 1251 et seq. of this title.

SUBCHAPTER III—NEW YORK HARBOR,
HARBOR OF HAMPTON ROADS, AND HAR-
BOR OF BALTIMORE**§ 441. Deposit of refuse prohibited; penalty**

The placing, discharging, or depositing, by any process or in any manner, of refuse, dirt, ashes, cinders, mud, sand, dredgings, sludge, acid, or any other matter of any kind, other than that flowing from streets, sewers, and passing therefrom in a liquid state, in the waters of any harbor subject to this subchapter, within the limits which shall be prescribed by the supervisor of the harbor, is strictly forbidden, and every such act is made a misdemeanor, and every person engaged in or who shall aid, abet, authorize, or instigate a violation of this section, shall, upon conviction, be punishable by fine or imprisonment, or both, such fine to be not less than \$250 nor more than \$2,500, and the imprisonment to be not less than thirty days nor more than one year, either or both united, as the judge before whom conviction is obtained shall decide, one-half of said fine to be paid to the person or persons giving information which shall lead to conviction of this misdemeanor.