§ 395. Limit of sentence

It shall not be lawful for the court to sentence any person convicted in such trial to any greater punishment than imprisonment in jail for one year, or to a fine exceeding $500, or both, in its discretion, in those cases where the laws of the United States authorize such imprisonment and fine.

(R.S. § 4304.)

CODIFICATION

R.S. § 4304 derived from act June 11, 1864, ch. 121, § 5, 13 Stat. 125.

§ 396. Recovery of penalties and forfeitures generally

All the penalties and forfeitures which may be incurred for offenses against title 48 of the Revised Statutes may be sued for, prosecuted, and recovered in such court, and be disposed of in such manner, as any penalties and forfeitures which may be incurred for offenses against the laws relating to the collection of duties, except when otherwise expressly prescribed.

(R.S. § 4305.)

REFERENCES IN TEXT

Title 48 of the Revised Statutes, referred to in text, was in the original ''this Title'', meaning title 48 of the Revised Statutes, consisting of R.S. §§ 4131 to 4305. For complete classification of R.S. §§ 4131 to 4305 to the Code, see Tables.

CODIFICATION

R.S. § 4305 derived from act Dec. 31, 1792, ch. 1, § 29, 1 Stat. 298.

CHAPTER 9—PROTECTION OF NAVIGABLE WATERS AND OF HARBOR AND RIVER IMPROVEMENTS GENERALLY

SUBCHAPTER I—IN GENERAL

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SUBCHAPTER I—IN GENERAL

§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 Transportation, 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 Transportation 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 Transportation 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 Transportation 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.)

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 superseded act Sept. 19, 1890, ch. 907, §7, 26 Stat. 454, as amended 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

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.

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.

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).

§ 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.)

CODIFICATION

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

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 or 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.)

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 9 of act Mar. 3, 1899 (section 401 of this title), superseded provisions of act Sept. 19, 1890, ch. 907, § 7, 26 Stat. 454, as amended by act July 13, 1892, ch. 158, § 3, 27 Stat. 110, 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 said Secretary.

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

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.

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).

§ 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.)

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 decisions 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.)

"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.)

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 débris 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."

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.)

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.)

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''.

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.)

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.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Sec-

retary 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 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.)

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

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 aforementioned 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.

(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.)

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

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.

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).

§ 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 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.)

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.)

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, en-

acted ''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.)

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.)

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''.

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 provi-

sions 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 sections, 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.)

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.''

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).

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) of this section. 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.)

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).

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).

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 obstruction, sinking of 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) of this section.

(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) of this section. 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.)

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).

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).

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 hereby 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.)

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.

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

Section 2 of act June 26, 1934, ch. 756, 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.)

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Sec-

retary 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.)

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 cultivation 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.)

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, how-*

ever, 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.)

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.

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.)

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.)

CODIFICATION

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

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.)

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.)

CODIFICATION

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

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.)

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

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.)

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.

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.)

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.

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.)

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.)

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.)

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.)

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.

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.)

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 Ter-

ritories 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) of this section 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 Secretary[1] 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 426h[2] 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 sections 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.

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

[2] See References in Text note below.

(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.)

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.

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, provided that:

''(a) REVIEW.—The Secretary shall review the implementation of the Corps of Engineers shore management program, with particular attention to—

''(1) inconsistencies in implementation among the divisions and districts of the Corps of Engineers; and

''(2) complaints by or potential inequities regarding property owners in the Savannah District, including an accounting of the number and disposition of complaints in the Savannah District during the 5-year period preceding the date of enactment of this Act [Aug. 17, 1999].

''(b) REPORT.—As expeditiously as practicable, but not later than 1 year after the date of enactment of this Act [Aug. 17, 1999], the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the results of the review under subsection (a).''

REPORT ON SHORES OF THE UNITED STATES

Pub. L. 106–53, title II, §215(c), Aug. 17, 1999, 113 Stat. 293, provided that:

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [Aug. 17, 1999], the Secretary shall report to Congress on the state of the shores of the United States.

''(2) CONTENTS.—The report shall include—

''(A) a description of—

''(i) the extent of, and economic and environmental effects caused by, erosion and accretion along the shores of the United States; and

''(ii) the causes of such erosion and accretion;

''(B) a description of resources committed by Federal, State, and local governments to restore and renourish shores;

''(C) a description of the systematic movement of sand along the shores of the United States; and

''(D) recommendations regarding—

''(i) appropriate levels of Federal and non-Federal participation in shore protection; and

''(ii) use of a systems approach to sand management.

''(3) USE OF SPECIFIC LOCATION DATA.—In developing the report, the Secretary shall use data from specific locations on the coasts of the Atlantic Ocean, Pacific Ocean, Great Lakes, and Gulf of Mexico.''

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 the date of the enactment of this Act [Nov. 28, 1990], the Secretary shall 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 will be located has established or committed to establish a beach front management program that includes—

''(1) restrictions on new development seaward of an erosion setback line (based on preproject beach size) of at least 30 times the annual erosion rate;

''(2) restrictions on construction of new structural stabilization projects, such as seawalls and groins, and their reconstruction if damaged by 50 percent or more;

''(3) provisions for the relocation of structures in erosion-prone areas;

''(4) provisions to assure public access to beaches stabilized or renourished with Federal funds after January 1, 1991; and

''(5) such other provisions as the Secretary may prescribe by regulation to prevent hazardous or environmentally damaging shoreline development.''

§ 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.)

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.

''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.

§ 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.)

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''.

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 demonstraton[1] 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.

[1] So in original. Probably should be ''demonstration''.

[2] See References in Text note below.

(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;

(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 $30,000,000 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 $5,000,000.

(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.)

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

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''.

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

Section 915(i) of Pub. L. 99–662 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

Section 112(c) of Pub. L. 91–611 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).

§ 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.)

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 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 under this section shall be cost-shared in the same proportion as the cost-sharing provisions applicable to 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 $5,000,000.

(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.

(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.)

AMENDMENTS

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''.

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.

§ 426i–1. Construction of shoreline protection projects by non-Federal interests

(a) Authority

Non-Federal interests are authorized to undertake shoreline protection projects on the coastline of the United States, subject to obtaining any permits required pursuant to Federal and State laws in advance of actual construction.

(b) Studies and engineering

(1) By non-Federal interests

A non-Federal interest may prepare, for review and approval by the Secretary, the necessary studies and engineering for any construction to be undertaken under subsection (a) of this section.

(2) By Secretary

Upon request of an appropriate non-Federal interest, the Secretary may undertake all necessary studies and engineering for any construction to be undertaken under subsection (a) of this section and provide technical assistance in obtaining all necessary permits for such construction if the non-Federal interest contracts with the Secretary to furnish the United States funds for the studies and engineering during the period that the studies and engineering will be conducted.

(c) Completion of studies

The Secretary is authorized to complete and transmit to the appropriate non-Federal interests any study for shoreline protection which was initiated before October 31, 1992, or, upon the request of such non-Federal interest, to terminate the study and transmit the partially completed study to the non-Federal interest for completion. Studies subject to this subsection shall be completed without regard to the requirements of subsection (b) of this section.

(d) Authority to carry out improvement

(1) In general

Any non-Federal interest which has received from the Secretary pursuant to subsection (b) or (c) of this section a favorable recommendation to carry out a shoreline protection project or separable element thereof, based on the results of completed studies and engineering for the project or element, may carry out the project or element if a final environmental impact statement has been filed for the project or element.

(2) Permits

Any plan of improvement proposed to be implemented in accordance with this subsection shall be deemed to satisfy the requirements for obtaining the appropriate permits required under the Secretary's authority and such permits shall be granted subject to the non-Federal interest's acceptance of the terms and conditions of such permits if the Secretary determines that the applicable regulatory criteria and procedures have been satisfied.

(3) Monitoring

The Secretary shall monitor any project for which permits are granted under this subsection in order to ensure that such project is constructed (and, in those cases where such activities will not be the responsibility of the Secretary, operated and maintained) in accordance with the terms and conditions of such permits.

(e) Reimbursement

(1) General rule

Subject to the enactment of appropriation Acts, the Secretary is authorized to reimburse any non-Federal interest an amount equal to the estimate of the Federal share, without interest, of the cost of any authorized shoreline protection project, or separable element thereof, constructed under this section—

(A) if, after authorization and before initiation of construction of the project or separable element, the Secretary approves the plans for construction of such project by such non-Federal interest and enters into a written agreement with the non-Federal interest with respect to the project or separable element (including the terms of cooperation); and

(B) if the Secretary finds, after a review of studies and engineering prepared pursuant to this section, that construction of the project or separable element is economically justified and environmentally acceptable.

(2) Matters to be considered in reviewing plans

In reviewing plans under this subsection, the Secretary shall consider budgetary and programmatic priorities and other factors that the Secretary deems appropriate.

(3) Monitoring

The Secretary shall regularly monitor and audit any project for shore protection constructed under this section by a non-Federal interest in order to ensure that such construction is in compliance with the plans approved by the Secretary and that the costs are reasonable.

(4) Limitation on reimbursements

No reimbursement shall be made under this section unless and until the Secretary has certified that the work for which reimbursement is requested has been performed in accordance with applicable permits or approved plans.

(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.)

AMENDMENTS

1996—Subsec. (e)(1)(A). Pub. L. 104–303 inserted before semicolon ''and enters into a written agreement with the non-Federal interest with respect to the project or separable element (including the terms of cooperation)''.

''SECRETARY'' DEFINED

Secretary means the Secretary of the Army, see section 3 of Pub. L. 102–580, set out as a note under section 2201 of this title.

§ 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.)

''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.

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.)

§ 426*l*. 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 identi-

fied 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-Fededal[1] 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.)

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) of this section shall be 50 percent.

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

''SECRETARY'' DEFINED

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

§ 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.)

''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.)

''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 co-

[1] So in original.

ordination 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.)

''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 armoring 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.)

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.

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 nonstructural 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 HARBOR 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.

(June 29, 1888, ch. 496, § 1, 25 Stat. 209; Pub. L. 85–802, § 1(1), Aug. 28, 1958, 72 Stat. 970.)

PRIOR PROVISIONS

Section 1 of act June 29, 1888, superseded act Aug. 5, 1886, ch. 929, § 3, 24 Stat. 329, which provided that: ''It shall not be lawful to cast, throw, empty, or unlade, or cause, suffer, or procure to be cast, thrown, emptied, or unladen, either from or out of any ship, vessel, lighter, barge, boat, or other craft, or from the shore, pier, wharf, or mills of any kind whatever, any ballast, stone, slate, gravel, earth, slack, rubbish, wreck, filth, slabs, edgings, sawdust, slag or cinders or other refuse or mill-waste of any kind, into New York Harbor: *Provided*, That nothing herein contained shall extend, or be construed to extend, to the casting out, unlading, or throwing out of any ship or vessel, lighter, barge, boat, or other craft, any stones, rocks, bricks, lime, or other materials used, or to be used, in or toward the building, repairing, or keeping in repair any quay, pier, wharf, weir, bridge, building, or other work lawfully erected or to be erected on the banks or sides of said harbor, or to the casting out, unloading or depositing of any material excavated for the improvement of navigable waters, into such places and in such manner as may be deemed by the United States officer supervising the improvement of said harbor most judicious and practicable and for the best interests of such improvement.''

AMENDMENTS

1958—Pub. L. 85–802 substituted ''waters of any harbor subject to this subchapter,'' for ''tidal waters of the harbor of New York, or its adjacent or tributary waters, or in those of long Island Sound,''.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 2 of Pub. L. 85–802 provided that: ''This Act [amending this section and sections 442, 446, 447, 449, 451, and 451a of this title and enacting section 451b of this title] shall take effect on the sixtieth day after the date of its enactment [Aug. 28, 1958].''

§ 442. Liability of officers of towing vessel

Any and every master 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 such prohibited matter to any point or place of deposit, or discharge in the waters of any harbor subject to this subchapter, or to any point or place elsewhere than within the limits defined and permitted by the supervisor of the harbor, shall be deemed guilty of a violation of section 441 of this title, and shall, upon conviction, be punishable as provided for offenses in violation of section 441 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.

(June 29, 1888, ch. 496, § 2, 25 Stat. 209; Pub. L. 85–802, § 1(2), Aug. 28, 1958, 72 Stat. 970.)

AMENDMENTS

1958—Pub. L. 85–802 substituted ''any harbor subject to this subchapter'' for ''the harbor of New York, or in its adjacent or tributary waters, or in those of Long Island Sound'', and struck out ''hereinafter mentioned'' after ''supervisor of the harbor''.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–802 effective on sixtieth day after Aug. 28, 1958, see section 2 of Pub. L. 85–802, set out as a note under section 441 of this title.

§ 443. Permit for dumping; penalty for taking or towing boat or scow without permit

In all cases of receiving on board of any scows or boats such forbidden matter or substance as described in section 441 of this title, the owner or master, or person acting in such capacity on board of such scows or boats, before proceeding to take or tow the same to the place of deposit, shall apply for and obtain from the supervisor of the harbor appointed, as provided in section 451 of this title, a permit defining the precise limits within which the discharge of such scows or boats may be made; and it shall not be lawful for the owner or master, or person acting in such capacity, of any tug or towboat to tow or move any scow or boat so loaded with such forbidden matter until such permit shall have been obtained; and every person violating the foregoing provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than $1,000 nor less than $500, and in addition thereto the master of any tug or towboat so offending shall have his license revoked or suspended for a term to be fixed by the judge before whom tried and convicted.

(June 29, 1888, ch. 496, § 3, 25 Stat. 209; Aug. 18, 1894, ch. 299, § 3, 28 Stat. 360; May 28, 1908, ch. 212, § 8, 35 Stat. 426.)

CODIFICATION

Section was enacted as part of section 3 of act June 29, 1888. Said section 3 of act June 29, 1888, enacted sections 443 to 448 of this title.

Section 3 of act June 29, 1888, as originally enacted, provided as follows:

''In all cases of receiving on board of any scows or boats such forbidden matter or substance as herein described, it shall be the duty of the owner or master, or person acting in such capacity, on board of such scows or boats, before proceeding to take or tow the same to the place of deposit, to apply for and obtain from the supervisor of the harbor appointed hereunder a permit defining the precise limits within which the discharge of such scows or boats may be made; and any deviation from such dumping or discharging place specified in such permit shall be a misdemeanor within the meaning of this act; and the master and engineer, or person or persons acting in such capacity, on board of any towboat towing such scows or boats, shall be equally guilty of such offense with the master or person acting in the capacity of master of the scow, and be liable to equal punishment.''

Section 3 was amended by act Aug. 18, 1894, to read as follows:

''In all cases of receiving on board of any scows or boats such forbidden matter or substance as herein described, the owner or master, or person acting in such capacity on board of such scows or boats, before proceeding to take or tow the same to the place of deposit, shall apply for and obtain from the supervisor of the harbor appointed hereunder a permit defining the precise limits within which the discharge of such scows or boats may be made; and it shall not be lawful for the owner or master, or person acting in such capacity, of any tug or towboat to tow or move any scow or boat so loaded with such forbidden matter until such permit shall have been obtained; and every person violating the foregoing provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than one thousand nor less than five hundred dollars, and in addition thereto the master of any tug or towboat so offending shall have his license revoked, or suspended for a term to be fixed by the judge before whom tried and convicted. And any deviation from such dumping or discharging place specified in such permit shall be a misdemeanor, and the owner and master, or person acting in the capacity of master, of any scows or boats dumping or discharging such forbidden matter in any place other than that specified in such permit shall be liable to punishment therefor as provided in section one of the said Act of June twenty-ninth, eighteen hundred and eighty-eight [section 441 of this title]; and the owner and master, or person acting in the capacity of master, of any tug or towboat towing such scows or boats shall be liable to equal punishment with the owner and master, or person acting in the capacity of master, of the scows or boats; and further, every scowman or other employee on board of both scows and towboats shall be deemed to have knowledge of the place of dumping specified in such permit, and the owners and masters, or persons acting in the capacity of masters, shall be liable to punishment, as aforesaid, for any unlawful dumping, within the meaning of this Act or of the said Act of June twenty-ninth, eighteen hundred and eighty-eight, which may be caused by the negligence or ignorance of such scowman or other employee; and, further, neither defect in machinery nor avoidable accidents to scows or towboats, nor unfavorable weather, nor improper handling or moving of scows or boats of any kind whatsoever, shall operate to release the owners and masters and employees of scows and towboats from the penalties hereinbefore mentioned. Every scow or boat engaged in the transportation of dredgings, earth, sand, mud, cellar dirt, garbage, or other offensive material of any description shall have its name or number and owner's name painted in letters and numbers at least fourteen inches long on both sides of the scow or boat; these names and numbers shall be kept distinctly legible at all times, and no scow or boat not so marked shall be used to transport or dump any such material. The supervisor of the harbor of New York, designated as provided in section five of the said Act of June twenty-ninth, eighteen hundred and eighty-eight [section 451 of this title], is authorized and directed to appoint inspectors and deputy inspectors, and, for the purpose of enforcing the provisions of this Act and of the Act aforesaid, and of detecting and bringing to punishment offenders against the same, the said supervisor of the harbor, and the inspectors and deputy inspectors so appointed by him, shall have power and authority: First. 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 this section and by the Act of June twenty-ninth, eighteen hundred and eighty-eight, aforesaid, 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 the supervisor or his inspectors or deputy inspectors, or either of them: And provided further, That whenever any such arrest is made the person or persons so arrested shall be brought forthwith before a commissioner, judge, or court of the United States for examination of the offenses alleged against him; and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States. Second. To go on board of any scow or towboat engaged in unlawful dumping of prohibited material, or in moving the same without a permit as required in this section of this Act, and to seize and

hold said boats until they are discharged by action of the commissioner, judge, or court of the United States before whom the offending persons are brought. Third. To arrest and take into custody any witness or witnesses to such unlawful dumping of prohibited material, the said witnesses to be released under proper bonds. Fourth. To go on board of any towboat having in tow scows or boats loaded with such prohibited material, and accompany the same to the place of dumping whenever such action appears to be necessary to secure compliance with the requirements of this Act and of the Act aforesaid. Fifth. To enter gas and oil works and all other manufacturing works for the purpose of discovering the disposition made of sludge, acid, or other injurious material, whenever there is good reason to believe that such sludge, acid, or other injurious material is allowed to run into the tidal waters of the harbor in violation of section one of the aforesaid Act of June twenty-ninth, eighteen hundred and eighty-eight [section 441 of this title]. Every person who, directly or indirectly, gives any sum of money or other bribe, present, or reward or makes any offer of the same to any inspector, deputy inspector, or other employee of the office of the supervisor of the harbor with intent to influence such inspector, deputy inspector, or other employee to permit or overlook any violation of the provisions of this section or of the said Act of June twenty-ninth, eighteen hundred and eighty-eight, shall, on conviction thereof, be fined not less than five hundred dollars nor more than one thousand dollars, and be imprisoned not less than six months nor more than one year. Every permit issued in accordance with the provisions of this section of this Act which may not be taken up by an inspector or deputy inspector shall be returned within forty-eight hours after issuance to the office of the supervisor of the harbor; such permit shall bear an indorsement by the master of the towboat, or the person acting in such capacity, stating whether the permit has been used, and if so the time and place of dumping. Any person violating the provisions of this section shall be liable to a fine of not more than five hundred dollars nor less than one hundred dollars.''

Section 3 was further amended by act May 28, 1908, ch. 212, § 8, to read as set forth in this section and sections 444 to 448 of this title.

§ 444. Dumping at other place than designated dumping grounds; penalty; person liable; excuses for deviation

Any deviation from such dumping or discharging place specified in such permit shall be a misdemeanor, and the owner and master, or person acting in the capacity of master, of any scows or boats dumping or discharging such forbidden matter in any place other than that specified in such permit shall be liable to punishment therefor as provided in section 441 of this title; and the owner and master, or person acting in the capacity of master, of any tug or towboat towing such scows or boats shall be liable to equal punishment with the owner and master, or person acting in the capacity of master, of the scows or boats; and, further, every scowman or other employee on board of both scows and towboats shall be deemed to have knowledge of the place of dumping specified in such permit, and the owners and masters, or persons acting in the capacity of masters, shall be liable to punishment, as aforesaid, for any unlawful dumping, within the meaning of this Act and this subchapter, which may be caused by the negligence or ignorance of such scowman or other employee; and, further, neither defect in machinery nor avoidable accidents to scows or towboats, nor unfavorable weather, nor improper handling or moving of scows or boats of any kind whatsoever shall operate to release the owners and master and employees of scows and towboats from the penalties mentioned in section 441 of this title.

(June 29, 1888, ch. 496, § 3, 25 Stat. 209; Aug. 18, 1894, ch. 299, § 3, 28 Stat. 360; May 28, 1908, ch. 212, § 8, 35 Stat. 426.)

REFERENCES IN TEXT

This Act, referred to in text, is act Aug. 18, 1894, ch. 299, 28 Stat. 356, as amended, which enacted sections 1, 31, and 452 of this title and amended sections 443 to 448 and 499 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of section 3 of act June 29, 1888. Said section 3 of act June 29, 1888, enacted sections 443 to 448 of this title. See Codification note set out under section 443 of this title.

§ 445. Equipment and marking of boats or scows

Every scow or boat engaged in the transportation of dredgings, earth, sand, mud, cellar dirt, garbage, or other offensive material of any description shall have its name or number and owner's name painted in letters and numbers at least fourteen inches long on both sides of the scow or boat; these names and numbers shall be kept distinctly legible at all times, and no scow or boat not so marked shall be used to transport or dump any such material. Each such scow or boat shall be equipped at all times with a life line or rope extending at least the length of and three feet above the deck thereof, such rope to be attached to the coaming thereof, also with a life preserver and a life buoy for each person on board thereof, also with anchor to weigh not less than two hundred and seventy-five pounds, and at least one hundred feet of cable attached thereto; a list of the names of all men employed on any such scow or boat shall be kept by the owner or master thereof and the said list shall be open to the inspection of all parties. Failure to comply with any of the foregoing provisions shall render the owner of such scow or boat liable upon conviction thereof to a penalty of not more than $500: *Provided*, That the requirements in regard to life line or rope contained in this section shall not apply to any scow or boat the deck outside the coaming or rail of which shall not exceed one foot in width: *And provided further*, That on any such scow or boat its name or number and owner's name painted in letters and numbers, at least fourteen inches long on both ends of such scow or boat, shall be a compliance with the provisions of this section in regard to name, number, and owner's name.

(June 29, 1888, ch. 496, § 3, 25 Stat. 209; Aug. 18, 1894, ch. 299, § 3, 28 Stat. 360; May 28, 1908, ch. 212, § 8, 35 Stat. 427; Feb. 16, 1909, ch. 132, 35 Stat. 623.)

CODIFICATION

Section was enacted as part of section 3 of act June 29, 1888. Said section 3 of act June 29, 1888, enacted sections 443 to 448 of this title. See Codification note set out under section 443 of this title.

Provisos are from act Feb. 16, 1909.

§ 446. Inspectors; appointment, powers, and duties

Each supervisor of a harbor is authorized and directed to appoint inspectors and deputy in-

spectors, and for the purposes of enforcing this subchapter and the Act of August 18, 1894, entitled ''An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'' (28 Stat. 338), and of detecting and bringing to punishment offenders against the same, the said supervisor of the harbor, and the inspectors and deputy inspectors so appointed by him, shall have power and authority.

First. 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 this subchapter, 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 the supervisor or his inspectors or deputy inspectors, or either of them: *And provided further*, That whenever any such arrest is made the person or persons 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.

Second. To go on board of any scow or towboat engaged in unlawful dumping of prohibited material, or in moving the same without a permit, as required in sections 443 to 448 of this title, or otherwise violating sections 443 to 448 of this title, and to seize and hold said boats until they are discharged by action of the magistrate judge, judge, or court of the United States before whom the offending persons are brought.

Third. To arrest and take into custody any witness or witnesses to such unlawful dumping of prohibited material, the said witnesses to be released under proper bonds.

Fourth. To go on board of any towboat having in tow scows or boats loaded with such prohibited material, and accompany the same to the place of dumping, whenever such action appears to be necessary to secure compliance with the requirements of this subchapter and of the Act aforesaid.

Fifth. To enter gas and oil works and all other manufacturing works for the purpose of discovering the disposition made of sludge, acid, or other injurious material, whenever there is good reason to believe that such sludge, acid, or other injurious material is allowed to run into tidal waters of the harbor in violation of section 441 of this title.

(June 29, 1888, ch. 496, § 3, 25 Stat. 209; Aug. 18, 1894, ch. 299, § 3, 28 Stat. 360; May 28, 1908, ch. 212, § 8, 35 Stat. 427; Pub. L. 85–802, § 1(3), Aug. 28, 1958, 72 Stat. 970; 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.)

REFERENCES IN TEXT

Act of August 18, 1894, referred to in provision preceding First paragraph, and Act aforesaid, referred to in Fourth paragraph, mean act Aug. 18, 1894, ch. 299, 28 Stat. 356, as amended, which enacted sections 1, 31, and 452 of this title and amended sections 443 to 448 and 499 of this title. For complete classification of this Act to the Code, see Tables.

Sections 443 to 448 of this title, referred to in the Second paragraph, were in the original ''this section of this Act'' meaning section 3 of act June 29, 1888, which enacted sections 443 to 448 of this title. The provision of section 3 relating to issuance of permits is classified to section 443 of this title.

CODIFICATION

Section was enacted as part of section 3 of act June 29, 1888. Said section 3 of act June 29, 1888, enacted sections 443 to 448 of this title. See Codification note set out under section 443 of this title.

AMENDMENTS

1958—Pub. L. 85–802 substituted ''Each supervisor of a harbor is authorized and directed to appoint inspectors and deputy inspectors, and, for the purposes of enforcing this subchapter'' for ''The supervisor of the harbor of New York, designated as provided in section 451 of this title, is authorized and directed to appoint inspectors and deputy inspectors, and for the purpose of enforcing sections 1, 31, and this subchapter''.

CHANGE OF NAME

''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'' substituted for ''commissioner'' pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–802 effective on sixtieth day after Aug. 28, 1958, see section 2 of Pub. L. 85–802, set out as a note under section 441 of this title.

§ 447. Bribery of inspector; penalty

Every person who, directly or indirectly, gives any sum of money or other bribe, present, or reward, or makes any offer of the same to any inspector, deputy inspector, or other employee of the office of any supervisor of a harbor with intent to influence such inspector, deputy inspector, or other employee to permit or overlook any violation of the provisions of this subchapter, shall, on conviction thereof, be fined not less than $500 nor more than $1,000, and be imprisoned not less than six months nor more than one year.

(June 29, 1888, ch. 496, § 3, 25 Stat. 209; Aug. 18, 1894, ch. 299, § 3, 28 Stat. 360; May 28, 1908, ch. 212, § 8, 35 Stat. 428; Pub. L. 85–802, § 1(4), Aug. 28, 1958, 72 Stat. 970.)

CODIFICATION

Section was enacted as part of section 3 of act June 29, 1888. Said section 3 of act June 29, 1888, enacted sections 443 to 448 of this title. See Codification note set out under section 443 of this title.

AMENDMENTS

1958—Pub. L. 85–802 substituted ''any supervisor of a harbor'' for ''the supervisor of the harbor''.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–802 effective on sixtieth day after Aug. 28, 1958, see section 2 of Pub. L. 85–802, set out as a note under section 441 of this title.

§ 448. Return of permit; penalty for failure to return

Every permit issued in accordance with the provisions of sections 443 to 448 of this title, which may not be taken up by an inspector or deputy inspector, shall be returned within four days after issuance to the office of the super-

visor of the harbor; such permit shall bear an indorsement by the master of the towboat, or the person acting in such capacity, stating whether the permit has been used, and, if so, the time and place of dumping. Any person violating the provisions of this section shall be liable to a fine of not more than $500 nor less than $100.

(June 29, 1888, ch. 496, § 3, 25 Stat. 209; Aug. 18, 1894, ch. 299, § 3, 28 Stat. 360; May 28, 1908, ch. 212, § 8, 35 Stat. 428.)

REFERENCES IN TEXT

Sections 443 to 448 of this title, referred to in text, were in the original ''this section of this Act'', meaning section 3 of act June 29, 1888, which enacted sections 443 to 448 of this title. The provision of section 3 relating to issuance of permits is classified to section 443 of this title.

CODIFICATION

Section was enacted as part of section 3 of act June 29, 1888. Said section 3 of act June 29, 1888 enacted sections 443 to 448 of this title. See Codification note set out under section 443 of this title.

§ 449. Disposition of dredged matter; persons liable; penalty

All mud, dirt, sand, dredgings, and material of every kind and description whatever taken, dredged, or excavated from any slip, basin, or shoal in any harbor subject to this subchapter, and placed on any boat, scow, or vessel for the purpose of being taken or towed upon the waters of that harbor to a place of deposit, shall be deposited and discharged at such place or within such limits as shall be defined and specified by the supervisor of the harbor, as in sections 443 to 448 of this title prescribed, and not otherwise. Every person, firm, or corporation being the owner of any slip, basin, or shoal, from which such mud, dirt, sand, dredgings, and material shall be taken, dredged, or excavated, and every person, firm, or corporation in any manner engaged in the work of dredging or excavating any such slip, basin, or shoal, or of removing such mud, dirt, sand, or dredgings therefrom, shall severally be responsible for the deposit and discharge of all such mud, dirt, sand, or dredgings at such place or within such limits so defined and prescribed by said supervisor of the harbor; and for every violation of the provisions of this section the person offending shall be guilty of an offense, and shall be punished by a fine equal to the sum of $5 for every cubic yard of mud, dirt, sand, dredgings, or material not deposited or discharged as required by this section.

(June 29, 1888, ch. 496, § 4, 25 Stat. 210; Pub. L. 85–802, § 1(5), Aug. 28, 1958, 72 Stat. 970.)

REFERENCES IN TEXT

Sections 443 to 448 of this title, referred to in text, were in the original ''the third section of this Act'', meaning section 3 of act June 29, 1888, which enacted sections 443 to 448 of this title. The provision of section 3 relating to specification of the limits within which to discharge is classified to section 443 of this title.

CODIFICATION

Section was enacted as part of section 4 of act June 29, 1888, which enacted sections 449 and 450 of this title.

AMENDMENTS

1958—Pub. L. 85–802 substituted ''any harbor subject to this subchapter'' for ''the harbor of New York, or the waters adjacent or tributary thereto'' and ''the waters of that harbor'' for ''the waters of the harbor of New York''.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–802 effective on sixtieth day after Aug. 28, 1958, see section 2 of Pub. L. 85–802, set out as a note under section 441 of this title.

§ 450. Liability of vessel

Any boat or vessel used or employed in violating any provision of this subchapter, shall be liable to the pecuniary penalties imposed thereby, and may be proceeded against, summarily by way of libel in any district court of the United States having jurisdiction thereof.

(June 29, 1888, ch. 496, § 4, 25 Stat. 210.)

CODIFICATION

Section was enacted as part of section 4 of act June 29, 1888, which enacted sections 449 and 450 of this title.

§ 451. Supervisor of harbor; appointment and duties

An officer of the Corps of Engineers shall, for each harbor subject to this subchapter, be designated by the Secretary of the Army as supervisor of the harbor, to act under the direction of the Chief of Engineers in enforcing the provisions of this subchapter, and in detecting offenders against the same. Each such officer shall have personal charge and supervision under the Chief of Engineers, and shall direct the patrol boats and other means to detect and bring to punishment offenders against the provisions of this subchapter.

(June 29, 1888, ch. 496, § 5, 25 Stat. 210; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; June 29, 1949, ch. 278, 63 Stat. 300; July 12, 1952, ch. 707, 66 Stat. 596; Pub. L. 85–802, § 1(6), Aug. 28, 1958, 72 Stat. 970.)

AMENDMENTS

1958—Pub. L. 85–802 inserted ''for each harbor subject to this subchapter,'' and substituted ''Each such officer'' for ''This officer''.

1952—Act July 12, 1952, transferred enforcement responsibilities of this section from a Naval officer to the Army district engineer at New York.

1949—Act June 29, 1949, struck out ''shall receive the sea-pay of his grade and'' after ''this officer''.

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 1958 AMENDMENT

Amendment by Pub. L. 85–802 effective on sixtieth day after Aug. 28, 1958, see section 2 of Pub. L. 85–802, set out as a note under section 441 of this title.

§ 451a. Harbors subject to this subchapter

The following harbors shall be subject to this subchapter:

(1) The harbor of New York.

(2) The harbor of Hampton Roads.
(3) The harbor of Baltimore.

(June 29, 1888, ch. 496, § 6, 25 Stat. 210; Pub. L. 85–802, § 1(7), Aug. 28, 1958, 72 Stat. 970.)

AMENDMENTS

1958—Pub. L. 85–802 substituted provisions making harbors of New York, Hampton Roads, and Baltimore subject to this subchapter for appropriation provisions.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–802 effective on sixtieth day after Aug. 28, 1958, see section 2 of Pub. L. 85–802, set out as a note under section 441 of this title.

§ 451b. Waters included within subchapter

For the purposes of this subchapter—

(1) The term ''harbor of New York'' means the tidal waters of the harbor of New York, its adjacent and tributary waters, and those of Long Island Sound.

(2) The term ''harbor of Hampton Roads'' means the tidal waters of the harbors of Norfolk, Portsmouth, Newport News, Hampton Roads, and their adjacent and tributary waters, so much of the Chesapeake Bay and its tributaries as lies within the State of Virginia, and so much of the Atlantic Ocean and its tributaries as lies within the jurisdiction of the United States within or to the east of the State of Virginia.

(3) The term ''harbor of Baltimore'' means the tidal waters of the harbor of Baltimore and its adjacent and tributary waters, and so much of Chesapeake Bay and its tributaries as lies within the State of Maryland.

(June 29, 1888, ch. 496, § 7, as added Pub. L. 85–802, § 1(8), Aug. 28, 1958, 72 Stat. 970.)

EFFECTIVE DATE

Section effective on sixtieth day after Aug. 28, 1958, see section 2 of Pub. L. 85–802, set out as an Effective Date of 1958 Amendment note under section 441 of this title.

§ 452. Taking shellfish or otherwise interfering with navigation in New York Harbor channels; penalty; arrest and procedure

It shall be unlawful for any person or persons to engage in fishing or dredging for shellfish in any of the channels leading to and from the harbor of New York, or to interfere in any way with the safe navigation of those channels by ocean steamships and ships of deep draft.

Any person or persons violating the foregoing provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine or imprisonment, or both, such fine to be not more than $250 nor less than $50, and the imprisonment to be not more than six months nor less than thirty days, either or both united, as the judge before whom conviction is obtained shall decide.

It shall be the duty of the United States supervisor of the harbor to enforce this section, and the deputy inspectors of the said supervisor shall have authority 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 this section: *Provided*, That no person shall be arrested without process for any offense not committed in the presence of the supervisor or his inspector or deputy inspectors, or either of them: *And provided further*, That whenever any such arrest is made the person or persons 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.

(Aug. 18, 1894, ch. 299, § 2, 28 Stat. 360; 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.)

CODIFICATION

Section was not enacted as part of act June 29, 1888, ch. 496, 25 Stat. 209, which comprises this subchapter.

CHANGE OF NAME

''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.

§ 453. Regulations for navigation of Ambrose Channel; exclusion of tows and sailing vessels

The Secretary of the Army is authorized to make such rules and regulations for the navigation of Ambrose Channel as he may deem necessary or expedient to insure its safe use in all kinds of weather, night and day, for all vessels under control and running under their own power, and to this end he may, in his discretion, forbid its use to tows of every description and to sailing vessels.

(Mar. 4, 1913, ch. 144, § 1, 37 Stat. 803; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CODIFICATION

Section was not enacted as part of act June 29, 1888, ch. 496, 25 Stat. 209, which comprises this subchapter.

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.

§ 454. Consent of Congress to obstruction of waters by New York City

The consent of Congress is given to the city of New York, in the State of New York, to obstruct navigation of any river or other waterway which does not form a connecting link between other navigable waters of the United States, and lying wholly within the limits of said city, by closing all or any portion of the same or by building structures in or over the same when the said city shall be lawfully authorized to do so by the State of New York: *Provided, however*, That any such obstruction shall be unlawful unless the location and plans for the proposed work or works

before the commencement thereof shall have been filed with and approved by the Secretary of the Army and Chief of Engineers; and when the plans for any such obstruction have been approved by the Chief of Engineers and by the Secretary of the Army it shall not be lawful to deviate from such plans either before or after the completion of such obstruction, unless the modification of such plans has previously been submitted to and received the approval of the Chief of Engineers and the Secretary of the Army: *And provided further*, That the city of New York shall be liable for any damage that may be inflicted upon private property by reason of any of the provisions of this section.

The right to alter, amend, or repeal this section is expressly reserved, and the United States shall incur no liability for the alteration, amendment, or repeal thereof to the city of New York, or to the owner or owners, or any other persons interested in any obstruction which shall have been constructed under its provisions.

(June 25, 1910, ch. 436, §§1, 2, 36 Stat. 866, 867; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

CODIFICATION

Section was not enacted as part of act June 29, 1888, ch. 496, 25 Stat. 209, which comprises this subchapter.

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).

SUBCHAPTER IV—POTOMAC RIVER AND TRIBUTARIES IN DISTRICT OF COLUMBIA

§§ 461 to 464. Repealed. Mar. 3, 1901, ch. 854, § 1636, 31 Stat. 1434

Section 461, act May 19, 1896, ch. 208, §1, 29 Stat. 126, prohibited deposit of ballast, dirt, ashes or oyster shells into Potomac River except for purpose of making a wharf and then only after approval.

Section 462, act May 19, 1896, ch. 208, §2, 29 Stat. 127, prohibited deposit of dead fish, dead animals, fruits, vegetables, ice, snow, filth or trash of any kind into Potomac River.

Section 463, act May 19, 1896, ch. 208, §3, 29 Stat. 127, related to penalties.

Section 464, act May 19, 1896, ch. 208, §4, 29 Stat. 127, provided that none of these provisions be construed to interfere with any work or improvements in harbor or river area.

SUBCHAPTER V—NAVIGABLE WATERS OF MARYLAND

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

Subject to the provisions of section 403 of this title authority is granted to dredge, without cost to the United States, in the navigable waters of the United States included within the State of Maryland and outside the limits of projects for improvement of navigation facilities approved by Congress, regardless of rights accruing to the United States as riparian owner under the laws of the State of Maryland: *Provided*, That in the opinion of the Chief of Engineers such dredging will improve facilities for navigation.

(July 3, 1930, ch. 847, §12, 46 Stat. 949.)

SUBCHAPTER VI—WATER POLLUTION CONTROL

§§ 466 to 466g. Transferred

CODIFICATION

Sections 466 to 466g of this title were transferred to sections 1151 to 1160 of this title and were subsequently omitted in the general amendment of the Federal Water Pollution Control Act by Pub. L. 92–500, §2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 466, acts June 30, 1948, ch. 758, §1, 62 Stat. 1155; July 9, 1956, ch. 518, §1, 70 Stat. 498; July 20, 1961, Pub. L. 87–88, §1(a), 75 Stat. 204; Oct. 2, 1965, Pub. L. 89–234, §1(a), 79 Stat. 903; 1966 Reorg. Plan No. 2, eff. May 10, 1966, §§1(a), (e)(1), 5, 31 F.R. 6857, 80 Stat. 1608, which related to Congressional declaration of policy, was transferred to section 1151 of this title.

Section 466–1, act June 30, 1948, ch. 758, §2, as added Oct. 2, 1965, Pub. L. 89–234, §2(a), 79 Stat. 903; amended 1966 Reorg. Plan. No. 2, eff. May 10, 1966, §1(a), (b), 31 F.R. 6857, 80 Stat. 1608; Apr. 3, 1970, Pub. L. 91–224, title I, §110(a), 84 Stat. 113, which provided for a Federal Water Quality Administration, was transferred to section 1152 of this title.

Section 466a, acts June 30, 1948, ch. 758, §3, formerly §2, 62 Stat. 1155; July 9, 1956, ch. 518, §1, 70 Stat. 498; July 20, 1961, Pub. L. 87–88, §§1(b), 2, 75 Stat. 204; renumbered §3, Oct. 2, 1965, Pub. L. 89–234, §2(a), 79 Stat. 903; Nov. 3, 1966, Pub. L. 89–753, title I, §101, 80 Stat. 1246, which provided for comprehensive water pollution programs, was transferred to section 1153 of this title.

Section 466b, acts June 30, 1948, ch. 758, §4, formerly §3, 62 Stat. 1157; July 9, 1956, ch. 518, §1, 70 Stat. 498; July 20, 1961, Pub. L. 87–88, §1(b), 75 Stat. 204; renumbered §4, Oct. 2, 1965, Pub. L. 89–234, §2(a), 79 Stat. 903, which provided for interstate cooperation, was transferred to section 1154 of this title.

Section 466c, acts June 30, 1948, ch. 758, §5, formerly §4, 62 Stat. 1158; July 9, 1956, ch. 518, §1, 70 Stat. 499; July 20, 1961, Pub. L. 87–88, §§1(b), (c), 3, 75 Stat. 204, 205; renumbered §5, Oct. 2, 1965, Pub. L. 89–234, §2(a), 79 Stat. 903; 1966 Reorg. Plan No. 2, eff. May 10, 1966, §1(a), 31 F.R. 6857, 80 Stat. 1608; Nov. 3, 1966, Pub. L. 89–753, title II, §201(b), (c)(1), 80 Stat. 1247, 1248; Apr. 3, 1970, Pub. L. 91–224, title I, §105, 84 Stat. 111, which provided for research, experiments, and studies, was transferred to section 1155 of this title.

Section 466c–1, act June 30, 1948, ch. 758, §6, as added Oct. 2, 1965, Pub. L. 89–234, §3, 79 Stat. 905; amended Nov. 3, 1966, Pub. L. 89–753, title II, §201(a), 80 Stat. 1246; Apr. 3, 1970, Pub. L. 91–224, title I, §106, 84 Stat. 113, which provided grants for research and development, was transferred to section 1156 of this title.

Section 466d, acts June 30, 1948, ch. 758, §7, formerly §5, 62 Stat. 1158; July 9, 1956, ch. 518, §1, 70 Stat. 499;

June 25, 1959, Pub. L. 86–70, § 28(a), 73 Stat. 148; July 12, 1960, Pub. L. 86–624, § 23(a), 74 Stat. 417; July 20, 1961, Pub. L. 87–88, §§ 1(b), 4(a), (b), 75 Stat. 204, 205; renumbered § 7 and amended Oct. 2, 1965, Pub. L. 89–234, §§ 2(a), 7(a), 79 Stat. 903, 910; Nov. 3, 1966, Pub. L. 89–753, title II, § 202, 80 Stat. 1248, which provided grants for water pollution control programs, was transferred to section 1157 of this title.

Section 466e, acts June 30, 1948, ch. 758, § 8, formerly § 6, 62 Stat. 1158; July 9, 1956, ch. 518, § 1, 70 Stat. 502; July 20, 1961, Pub. L. 87–88, §§ 1(b), 5, 75 Stat. 204, 206; renumbered § 8 and amended Oct. 2, 1965, Pub. L. 89–234, §§ 2(a), 4, 7(b), 79 Stat. 903, 906, 910; Nov. 3, 1966, Pub. L. 89–753, title II, §§ 203(a), 204, 205, 80 Stat. 1248–1250; Apr. 3, 1970, Pub. L. 91–224, title I, § 111, 84 Stat. 113, which provided grants for construction of sewerage treatment works, was transferred to section 1158 of this title.

Section 466f, acts June 30, 1948, ch. 758, § 9, formerly § 7, 62 Stat. 1159; July 17, 1952, ch. 927, 66 Stat. 755; July 9, 1956, ch. 518, § 1, 70 Stat. 503; July 20, 1961, Pub. L. 87–88, §§ 1(b)–(d), 6(a), (b), 75 Stat. 204, 207; renumbered § 9, Oct. 2, 1965, Pub. L. 89–234, § 2(a), 79 Stat. 903; 1966 Reorg. Plan No. 2, eff. May 10, 1966, § 1(a), (c)(1), (2), 31 F.R. 6857, 80 Stat. 1608, which provided for a Water Pollution Control Advisory Board, was transferred to section 1159 of this title.

Section 466g, acts June 30, 1948, ch. 758, § 10, formerly § 8, 62 Stat. 1159; July 17, 1952, ch. 927, 66 Stat. 755; July 9, 1956, ch. 518, § 1, 70 Stat. 504; July 20, 1961, Pub. L. 87–88, §§ 1(b), 7, 75 Stat. 204, 207; renumbered § 10 and amended Oct. 2, 1965, Pub. L. 89–234, §§ 2(a), 5, 7(c), (d), 79 Stat. 903, 907, 910; 1966 Reorg. Plan No. 2, eff. May 10, 1966, § 1(a), (d)(1), (2), 31 F.R. 6857, 80 Stat. 1608; Nov. 3, 1966, Pub. L. 89–753, title II, §§ 206–208, 80 Stat. 1250; Apr. 3, 1970, Pub. L. 91–224, title I, § 112, 84 Stat. 114, which provided for enforcement measures against pollution of interstate or navigable waters, was transferred to section 1160 of this title.

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

(a) Jurisdiction of actions by States

The United States district courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other court of the United States or of any State of the United States in matters in which the Supreme Court, or any other court, has original jurisdiction) of any case or controversy—

(1) which involves the construction or application of an interstate compact which (A) in whole or in part relates to the pollution of the waters of an interstate river system or any portion thereof, and (B) expresses the consent of the States signatory to said compact to be sued in a district court in any case or controversy involving the application or construction thereof; and

(2) which involves pollution of the waters of such river system, or any portion thereof, alleged to be in violation of the provisions of said compact; and

(3) in which one or more of the States signatory to said compact is a plaintiff or plaintiffs; and

(4) which is within the judicial power of the United States as set forth in the Constitution of the United States.

(b) Amount in controversy; residence, situs or citizenship; nature, character, or legal status of parties

The district courts shall have original jurisdiction of a case or controversy such as is referred to in subsection (a) of this section, without any requirement, limitation, or regard as to the sum or value of the matter in controversy, or of the place of residence or situs or citizenship, or of the nature, character, or legal status, of any of the proper parties plaintiff or defendant in said case or controversy other than the signatory State or States plaintiff or plaintiffs referred to in paragraph (3) of subsection (a) of this section: *Provided*, That nothing in this section shall be construed as authorizing a State to sue its own citizens in said courts.

(c) Suits between States signatory to interstate compact

The original jurisdiction conferred upon the district courts by this section shall include, but not be limited to, suits between States signatory to such interstate compact: *Provided*, That nothing in this section shall be construed as authorizing a State to sue another State which is not a signatory to such compact in said courts.

(d) Venue

The venue of such case or controversy shall be as prescribed by law: *Provided*, That in addition thereto, such case or controversy may be brought in in any judicial district in which the acts of pollution complained of, or any portion thereof, occur, regardless of the place or places of residence, or situs, of any of the parties plaintiff or defendant.

(Pub. L. 87–830, § 1, Oct. 15, 1962, 76 Stat. 957.)

SEPARABILITY

Section 2 of Pub. L. 87–830 provided that: "If any part or application of this Act [this section] should be declared invalid by a court of competent jurisdiction, said invalidity shall not affect the other parts, or the other applications, of said Act."

§§ 466h to 466*l*. Transferred

CODIFICATION

Sections 466h to 466*l* of this title were transferred to sections 1171 to 1175 of this title and were subsequently omitted in the general amendment of the Federal Water Pollution Control Act by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816. See section 1251 et seq. of this title.

Section 466h, acts June 30, 1948, ch. 758, § 21, formerly § 9, 62 Stat. 1160; July 9, 1956, ch. 518, § 1, 70 Stat. 506; July 20, 1961, Pub. L. 87–88, § 8, 75 Stat. 210; renumbered § 11 and amended Oct. 2, 1965, Pub. L. 89–234, §§ 2(a), 7(e), 79 Stat. 903, 910; 1966 Reorg. Plan No. 2, eff. May 10, 1966, § 1(a), 31 F.R. 6857, 80 Stat. 1608; renumbered § 21 and amended Apr. 3, 1970, Pub. L. 91–224, title I, §§ 102, 103, 84 Stat. 91, 107, which provided for cooperation by all Federal agencies in pollution control, was transferred to section 1171 of this title.

Section 466i, acts June 30, 1948, ch. 758, § 22, formerly § 10, 62 Stat. 1160; July 9, 1956, ch. 518, § 1, 70 Stat. 506; July 20, 1961, Pub. L. 87–88, § 1(b), (d), (e), 75 Stat. 204; renumbered § 12 and amended Oct. 2, 1965, Pub. L. 89–234, §§ 2(a), 6, 79 Stat. 903, 909; 1966 Reorg. Plan No. 2, eff. May 10, 1966, § 1(a), 31 F.R. 6857, 80 Stat. 1608; renumbered § 22 and amended Apr. 3, 1970, Pub. L. 91–224, title I, §§ 102, 104, 84 Stat. 91, 110, which provided for rules and regulations, was transferred to section 1172 of this title.

Section 466j, acts June 30, 1948, ch. 758, § 23, formerly § 11, 62 Stat. 1161; July 9, 1956, ch. 518, § 1, 70 Stat. 506; June 25, 1959, Pub. L. 86–70, § 28(b), 73 Stat. 148; July 12, 1960, Pub. L. 86–624, § 23(b), 74 Stat. 418; July 20, 1961, Pub. L. 87–88, § 9, 75 Stat. 210; renumbered § 13, Oct. 2,

1965, Pub. L. 89–234, § 2(a), 79 Stat. 903; Nov. 3, 1966, Pub. L. 89–753, title II, § 209, 80 Stat. 1251; renumbered § 23, Apr. 3, 1970, Pub. L. 91–224, title I, § 102, 84 Stat. 91, which related to definitions, was transferred to section 1173 of this title.

Section 466k, act June 30, 1948, ch. 758, § 24, formerly § 12, as added July 9, 1956, ch. 518, § 1, 70 Stat. 506; renumbered § 14, Oct. 2, 1965, Pub. L. 89–234, § 2(a), 79 Stat. 903; renumbered § 24 and amended Apr. 3, 1970, Pub. L. 91–224, title I, §§ 102, 107, 84 Stat. 91, 113, which related to application of other laws, was transferred to section 1174 of this title.

Section 466*l*, act June 30, 1948, ch. 758, § 26, formerly § 16, as added Nov. 3, 1966, Pub. L. 89–753, title II, § 210, 80 Stat. 1252; renumbered § 26, Apr. 3, 1970, Pub. L. 91–224, title I, § 102, 84 Stat. 91, which provided for studies and analysis of costs estimates and reports to Congress, was transferred to section 1175 of this title.

§§ 466m, 466n. Repealed. Pub. L. 91–224, title I, § 102, Apr. 3, 1970, 84 Stat. 91

Section 466m, act June 30, 1948, ch. 758, § 17, as added Nov. 3, 1966, Pub. L. 89–753, title II, § 210, 80 Stat. 1252, authorized a study by Secretary of the Interior, and a report to Congress not later than July 1, 1967, of the extent of pollution of the navigable waters of the United States from litter and sewage deposited into such waters from watercraft.

Section 466n, act June 30, 1948, ch. 758, § 18, as added Nov. 3, 1966, Pub. L. 89–753, title II, § 210, 80 Stat. 1252, authorized a study by Secretary of the Interior, and a report to Congress not later than Jan. 30, 1968, relating to incentives, including, but not limited to, tax and other financial incentives, to assist in the construction of industrial anti-pollution facilities.

SUBCHAPTER VII—DAM INSPECTION PROGRAM

§ 467. Definitions

In this subchapter, the following definitions apply:

(1) Board

The term ''Board'' means a National Dam Safety Review Board established under section 467f(f) of this title.

(2) Dam

The term ''dam''—

(A) means any artificial barrier that has the ability to impound water, wastewater, or any liquid-borne material, for the purpose of storage or control of water, that—

(i) is 25 feet or more in height from—

(I) the natural bed of the stream channel or watercourse measured at the downstream toe of the barrier; or

(II) if the barrier is not across a stream channel or watercourse, from the lowest elevation of the outside limit of the barrier;

to the maximum water storage elevation; or

(ii) has an impounding capacity for maximum storage elevation of 50 acre-feet or more; but

(B) does not include—

(i) a levee; or

(ii) a barrier described in subparagraph (A) that—

(I) is 6 feet or less in height regardless of storage capacity; or

(II) has a storage capacity at the maximum water storage elevation that is 15 acre-feet or less regardless of height;

unless the barrier, because of the location of the barrier or another physical characteristic of the barrier, is likely to pose a significant threat to human life or property if the barrier fails (as determined by the Director).

(3) Director

The term ''Director'' means the Administrator of FEMA.

(4) Federal agency

The term ''Federal agency'' means a Federal agency that designs, finances, constructs, owns, operates, maintains, or regulates the construction, operation, or maintenance of a dam.

(5) Federal Guidelines for Dam Safety

The term ''Federal Guidelines for Dam Safety'' means the FEMA publication, numbered 93 and dated June 1979, that defines management practices for dam safety at all Federal agencies.

(6) FEMA

The term ''FEMA'' means the Federal Emergency Management Agency.

(7) Hazard reduction

The term ''hazard reduction'' means the reduction in the potential consequences to life and property of dam failure.

(8) ICODS

The term ''ICODS'' means the Interagency Committee on Dam Safety established by section 467e of this title.

(9) Program

The term ''Program'' means the national dam safety program established under section 467f of this title.

(10) State

The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(11) State dam safety agency

The term ''State dam safety agency'' means a State agency that has regulatory authority over the safety of non-Federal dams.

(12) State dam safety program

The term ''State dam safety program'' means a State dam safety program approved and assisted under section 467f(e) of this title.

(13) United States

The term ''United States'', when used in a geographical sense, means all of the States.

(Pub. L. 92–367, § 2, as added Pub. L. 104–303, title II, § 215(c)(4), Oct. 12, 1996, 110 Stat. 3685; amended Pub. L. 107–310, § 3(e)(2), Dec. 2, 2002, 116 Stat. 2451; Pub. L. 109–295, title VI, § 612(c), Oct. 4, 2006, 120 Stat. 1410.)

PRIOR PROVISIONS

A prior section 467, Pub. L. 92–367, § 1, Aug. 8, 1972, 86 Stat. 506; Pub. L. 99–662, title XII, § 1201(a), Nov. 17, 1986,

100 Stat. 4260, defined term ''dam'' as used in this subchapter, prior to repeal by Pub. L. 104–303, § 215(c)(1).

A prior section 2 of Pub. L. 92–367 was renumbered section 3 by section 215(c)(3) of Pub. L. 104–303 and is classified to section 467a of this title.

AMENDMENTS

2002—Par. (1). Pub. L. 107–310, § 3(e)(2)(A), substituted ''section 467f(f)'' for ''section 467f(h)''.

Par. (12). Pub. L. 107–310, § 3(e)(2)(B), substituted ''section 467f(e)'' for ''section 467f(f)''.

CHANGE OF NAME

''Administrator of FEMA'' substituted for ''Director of FEMA'' in par. (3) on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–460, § 1(a), Dec. 22, 2006, 120 Stat. 3401, provided that: ''This section [amending sections 467d, 467f, and 467j of this title] may be cited as the 'Dam Safety Act of 2006'.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–310, § 1(a), Dec. 2, 2002, 116 Stat. 2450, provided that: ''This Act [enacting section 467g–1 of this title and amending this section and sections 467e to 467g and 467h to 467j of this title] may be cited as the 'Dam Safety and Security Act of 2002'.''

SHORT TITLE OF 1986 AMENDMENT

Section 1206 of title XII of Pub. L. 99–662 provided that: ''This title [enacting sections 467f to 467n and 2311 of this title and amending this section and sections 467a and 467b of this title] may be cited as the 'Dam Safety Act of 1986'.''

SHORT TITLE

Section 1 of Pub. L. 92–367, as added by Pub. L. 104–303, title II, § 215(c)(1), Oct. 12, 1996, 110 Stat. 3685, provided that: ''This Act [enacting this subchapter] may be cited as the 'National Dam Safety Program Act'.''

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 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.

CONGRESSIONAL STATEMENT OF PURPOSE; NATIONAL DAM SAFETY PROGRAM

Section 215(a) of Pub. L. 104–303 provided that: ''The purpose of this section [enacting this section and sections 467d to 467j of this title, amending sections 467a to 467c of this title and section 3802 of Title 25, Indians, repealing former sections 467 and 467d to 467m of this title, and enacting provisions set out as notes under this section] is to reduce the risks to life and property from dam failure in the United States through the establishment and maintenance of an effective national dam safety program to bring together the expertise and resources of the Federal and non-Federal communities in achieving national dam safety hazard reduction. It is not the intent of this section to preempt any other Federal or State authorities nor is it the intent of this section to mandate State participation in the grant assistance program to be established under this section.''

EFFECT ON OTHER DAM SAFETY PROGRAMS

Section 215(b) of Pub. L. 104–303 provided that: ''Nothing in this section (including the amendments made by this section) [enacting this section and sections 467d to 467j of this title, amending sections 467a to 467c of this title and section 3802 of Title 25, Indians, repealing former sections 467 and 467d to 467m of this title, and enacting provisions set out as notes under this section] shall preempt or otherwise affect any dam safety program of a Federal agency other than the Federal Emergency Management Agency, including any program that regulates, permits, or licenses any activity affecting a dam.''

§ 467a. Inspection of dams

(a) In general

As soon as practicable, the Secretary of the Army, acting through the Chief of Engineers, shall carry out a national program of inspection of dams for the purpose of protecting human life and property. All dams in the United States shall be inspected by the Secretary except (1) dams under the jurisdiction of the Bureau of Reclamation, the Tennessee Valley Authority, or the International Boundary and Water Commission, (2) dams which have been constructed pursuant to licenses issued under the authority of the Federal Power Act [16 U.S.C. 791a et seq.], (3) dams which have been inspected within the twelve-month period immediately prior to August 8, 1972, by a State agency and which the Governor of such State requests be excluded from inspection, and (4) dams which the Secretary of the Army determines do not pose any threat to human life or property. The Secretary may inspect dams which have been licensed under the Federal Power Act upon request of the Federal Energy Regulatory Commission and dams under the jurisdiction of the International Boundary and Water Commission upon request of such Commission.

(b) State participation

On request of a State dam safety agency, with respect to any dam the failure of which would affect the State, the head of a Federal agency shall—

(1) provide information to the State dam safety agency on the construction, operation, or maintenance of the dam; or

(2) allow any official of the State dam safety agency to participate in the Federal inspection of the dam.

(Pub. L. 92–367, § 3, formerly § 2, Aug. 8, 1972, 86 Stat. 506; Pub. L. 95–91, title IV, § 402(a)(1)(A), Aug. 4, 1977, 91 Stat. 583; renumbered § 3 and amended Pub. L. 104–303, title II, § 215(c)(3), (5), Oct. 12, 1996, 110 Stat. 3685, 3687.)

REFERENCES IN TEXT

The Federal Power Act, referred to in subsec. (a), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended,

which is classified generally to chapter 12 (§ 791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

PRIOR PROVISIONS

A prior section 3 of Pub. L. 92–367 was renumbered section 4 and is classified to section 467b of this title.

AMENDMENTS

1996—Pub. L. 104–303 inserted section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

TRANSFER OF FUNCTIONS

''Federal Energy Regulatory Commission'' substituted in text for ''Federal Power Commission'' on authority of Pub. L. 95–91, title IV, § 402(a)(1)(A), Aug. 4, 1977, 91 Stat. 583, which is classified to section 7172(a)(1)(A) of Title 42, The Public Health and Welfare.

§ 467b. Investigation reports to Governors

As soon as practicable after inspection of a dam, the Secretary shall notify the Governor of the State in which such dam is located the results of such investigation. In any case in which any hazardous conditions are found during an inspection, upon request by the owner, the Secretary, acting through the Chief of Engineers, may perform detailed engineering studies to determine the structural integrity of the dam, subject to reimbursement of such expense by the owner of such dam. The Secretary shall immediately notify the Governor of any hazardous conditions found during an inspection. The Secretary shall provide advice to the Governor, upon request, relating to timely remedial measures necessary to mitigate or obviate any hazardous conditions found during an inspection.

(Pub. L. 92–367, § 4, formerly § 3, Aug. 8, 1972, 86 Stat. 507; Pub. L. 99–662, title XII, § 1204, Nov. 17, 1986, 100 Stat. 4263; renumbered § 4 and amended Pub. L. 104–303, title II, § 215(c)(3), (6), Oct. 12, 1996, 110 Stat. 3685, 3687.)

PRIOR PROVISIONS

A prior section 4 of Pub. L. 92–367 was renumbered section 5 and is classified to section 467c of this title.

AMENDMENTS

1996—Pub. L. 104–303 inserted section catchline.

1986—Pub. L. 99–662 inserted ''In any case in which any hazardous conditions are found during an inspection, upon request by the owner, the Secretary, acting through the Chief of Engineers, may perform detailed engineering studies to determine the structural integrity of the dam, subject to reimbursement of such expense by the owner of such dam.''

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

For the purpose of determining whether a dam (including the waters impounded by such dam) constitutes a danger to human life or property, the Secretary shall take into consideration the possibility that the dam might be endangered by overtopping, seepage, settlement, erosion, sediment, cracking, earth movement, earthquakes, failure of bulkheads, flashboard, gates on conduits, or other conditions which exist or which might occur in any area in the vicinity of the dam.

(Pub. L. 92–367, § 5, formerly § 4, Aug. 8, 1972, 86 Stat. 507; renumbered § 5 and amended Pub. L. 104–303, title II, § 215(c)(3), (7), Oct. 12, 1996, 110 Stat. 3685, 3687.)

PRIOR PROVISIONS

A prior section 5 of Pub. L. 92–367 was classified to section 467d of this title prior to repeal by Pub. L. 104–303.

AMENDMENTS

1996—Pub. L. 104–303 inserted section catchline.

§ 467d. National dam inventory

The Secretary of the Army shall maintain and update information on the inventory of dams in the United States. Such inventory of dams shall include any available information assessing each dam based on inspections completed by either a Federal agency or a State dam safety agency.

(Pub. L. 92–367, § 6, as added Pub. L. 104–303, title II, § 215(c)(8), Oct. 12, 1996, 110 Stat. 3687; amended Pub. L. 109–460, § 1(b), Dec. 22, 2006, 120 Stat. 3401.)

PRIOR PROVISIONS

A prior section 467d, Pub. L. 92–367, § 5, Aug. 8, 1972, 86 Stat. 507, directed Secretary report to Congress on or before July 1, 1974, on activities under this subchapter, including in report an inventory of dams in the United States, a review of each inspection made, recommendations to State Governors and implementation of those recommendations, recommendations for comprehensive national program for inspection and safety regulation, and recommendations on responsibilities which should be assumed by Federal, State, and local governments and by public and private interests, prior to repeal by Pub. L. 104–303, title II, § 215(c)(2), Oct. 12, 1996, 110 Stat. 3685.

A prior section 6 of Pub. L. 92–367 was classified to section 467e of this title prior to repeal by Pub. L. 104–303.

AMENDMENTS

2006—Pub. L. 109–460 amended section generally. Prior to amendment, section read as follows: ''The Secretary of the Army, acting through the Chief of Engineers, may maintain and periodically publish updated information on the inventory of dams in the United States.''

§ 467e. Interagency Committee on Dam Safety

(a) Establishment

There is established an Interagency Committee on Dam Safety—

(1) comprised of a representative of each of the Department of Agriculture, the Department of Defense, the Department of Energy, the Department of the Interior, the Department of Labor, FEMA, the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission, the Tennessee Valley Authority, and the United States Section of the International Boundary Commission; and

(2) chaired by the Director.

(b) Duties

ICODS shall encourage the establishment and maintenance of effective Federal programs, policies, and guidelines intended to enhance dam safety for the protection of human life and property through coordination and information exchange among Federal agencies concerning implementation of the Federal Guidelines for Dam Safety.

(Pub. L. 92–367, § 7, as added Pub. L. 104–303, title II, § 215(c)(8), Oct. 12, 1996, 110 Stat. 3687; amended Pub. L. 107–310, § 2, Dec. 2, 2002, 116 Stat. 2450.)

PRIOR PROVISIONS

A prior section 467e, Pub. L. 92–367, § 6, Aug. 8, 1972, 86 Stat. 507, directed that existing liabilities and obligations be unaffected, prior to repeal by Pub. L. 104–303, title II, § 215(c)(2), Oct. 12, 1996, 110 Stat. 3685.

A prior section 7 of Pub. L. 92–367 was classified to section 467f of this title prior to repeal by Pub. L. 104–303.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–310 substituted ''Federal programs'' for ''Federal and State programs'' and ''through coordination and information exchange among Federal agencies concerning implementation of the Federal Guidelines for Dam Safety.'' for ''through—

''(1) coordination and information exchange among Federal agencies and State dam safety agencies; and

''(2) coordination and information exchange among Federal agencies concerning implementation of the Federal Guidelines for Dam Safety.''

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 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.

§ 467f. National dam safety program

(a) In general

The Director, in consultation with ICODS and State dam safety agencies, and the Board shall establish and maintain, in accordance with this section, a coordinated national dam safety program. The Program shall—

(1) be administered by FEMA to achieve the objectives set forth in subsection (c) of this section;

(2) involve, to the extent appropriate, each Federal agency; and

(3) include—

(A) each of the components described in subsection (d) of this section;

(B) the strategic plan described in subsection (b) of this section; and

(C) assistance for State dam safety programs described in subsection (e) of this section.

(b) Duties

The Director shall prepare a strategic plan—

(1) to establish goals, priorities, performance measures, and target dates toward effectively administering this subchapter in order to improve the safety of dams in the United States; and

(2) to the extent feasible, to establish cooperation and coordination with, and assistance to, interested governmental entities in all States.

(c) Objectives

The objectives of the Program are to—

(1) ensure that new and existing dams are safe through the development of technologically and economically feasible programs and procedures for national dam safety hazard reduction;

(2) encourage acceptable engineering policies and procedures to be used for dam site investigation, design, construction, operation and maintenance, and emergency preparedness;

(3) encourage the establishment and implementation of effective dam safety programs in each State based on State standards;

(4) develop and encourage public awareness projects to increase public acceptance and support of State dam safety programs;

(5) develop technical assistance materials for Federal and non-Federal dam safety programs;

(6) develop mechanisms with which to provide Federal technical assistance for dam safety to the non-Federal sector; and

(7) develop technical assistance materials, seminars, and guidelines to improve security for dams in the United States.

(d) Components

(1) In general

The Program shall consist of—

(A) a Federal element and a non-Federal element; and

(B) leadership activity, technical assistance activity, and public awareness activity.

(2) Elements

(A) Federal

The Federal element shall incorporate the activities and practices carried out by Federal agencies under section 467e of this title to implement the Federal Guidelines for Dam Safety.

(B) Non-Federal

The non-Federal element shall consist of—

(i) the activities and practices carried out by States, local governments, and the private sector to safely build, regulate, operate, and maintain dams; and

(ii) Federal activities that foster State efforts to develop and implement effective programs for the safety of dams.

(3) Functional activities

(A) Leadership

The leadership activity shall be the responsibility of FEMA and shall be exercised by chairing the Board to coordinate national efforts to improve the safety of the dams in the United States.

(B) Technical assistance

The technical assistance activity shall consist of the transfer of knowledge and technical information among the Federal and non-Federal elements described in paragraph (2).

(C) Public awareness

The public awareness activity shall provide for the education of the public, includ-

ing State and local officials, in the hazards of dam failure, methods of reducing the adverse consequences of dam failure, and related matters.

(e) Assistance for State dam safety programs

(1) In general

To encourage the establishment and maintenance of effective State programs intended to ensure dam safety, to protect human life and property, and to improve State dam safety programs, the Director shall provide assistance with amounts made available under section 467j of this title to assist States in establishing, maintaining, and improving dam safety programs in accordance with the criteria specified in paragraph (2).

(2) Criteria and budgeting requirement

For a State to be eligible for assistance under this subsection, a State dam safety program must be working toward meeting the following criteria and budgeting requirement:

(A) Criteria

A State dam safety program must be authorized by State legislation to include, at a minimum—

(i) the authority to review and approve plans and specifications to construct, enlarge, modify, remove, and abandon dams;

(ii) the authority to perform periodic inspections during dam construction to ensure compliance with approved plans and specifications;

(iii) a requirement that, on completion of dam construction, State approval must be given before operation of the dam;

(iv) the authority to require or perform periodic evaluations of all dams and reservoirs to determine the extent of the threat to human life and property in case of failure;

(v)(I) the authority to require or perform the inspection, at least once every 5 years, of all dams and reservoirs that would pose a significant threat to human life and property in case of failure to determine the continued safety of the dams and reservoirs; and

(II) a procedure for more detailed and frequent safety inspections;

(vi) a requirement that all inspections be performed under the supervision of a State-registered professional engineer with related experience in dam design and construction;

(vii) the authority to issue notices, when appropriate, to require owners of dams to perform necessary maintenance or remedial work, install and monitor instrumentation, improve security, revise operating procedures, or take other actions, including breaching dams when necessary;

(viii) regulations for carrying out the legislation of the State described in this subparagraph;

(ix) provision for necessary funds—

(I) to ensure timely repairs or other changes to, or removal of, a dam in order to protect human life and property; and

(II) if the owner of the dam does not take action described in subclause (I), to take appropriate action as expeditiously as practicable;

(x) a system of emergency procedures to be used if a dam fails or if the failure of a dam is imminent; and

(xi) an identification of—

(I) each dam the failure of which could be reasonably expected to endanger human life;

(II) the maximum area that could be flooded if the dam failed; and

(III) necessary public facilities that would be affected by the flooding.

(B) Budgeting requirement

For a State to be eligible for assistance under this subsection, State appropriations must be budgeted to carry out the legislation of the State under subparagraph (A).

(3) Work plans

The Director shall enter into a[1] agreement with each State receiving assistance under paragraph (2) to develop a work plan necessary for the State dam safety program to reach a level of program performance specified in the agreement.

(4) Maintenance of effort

Assistance may not be provided to a State under this subsection for a fiscal year unless the State enters into such agreement with the Director as the Director requires to ensure that the State will maintain the aggregate expenditures of the State from all other sources for programs to ensure dam safety for the protection of human life and property at or above a level equal to the average annual level of such expenditures for the 2 fiscal years preceding the fiscal year.

(5) Approval of programs

(A) Submission

For a State to be eligible for assistance under this subsection, a plan for a State dam safety program shall be submitted to the Director for approval.

(B) Approval

A State dam safety program shall be deemed to be approved 120 days after the date of receipt by the Director unless the Director determines within the 120-day period that the State dam safety program fails to meet the requirements of paragraphs (1) through (3).

(C) Notification of disapproval

If the Director determines that a State dam safety program does not meet the requirements for approval, the Director shall immediately notify the State in writing and provide the reasons for the determination and the changes that are necessary for the plan to be approved.

(6) Review of State dam safety programs

Using the expertise of the Board, the Director shall periodically review State dam safety programs. If the Board finds that a State dam

[1] So in original. Probably should be ''an''.

safety program has proven inadequate to reasonably protect human life and property and the Director concurs, the Director shall revoke approval of the State dam safety program, and withhold assistance under this subsection, until the State dam safety program again meets the requirements for approval.

(f) Board

(1) Establishment

The Director shall establish an advisory board to be known as the ''National Dam Safety Review Board'' to monitor the safety of dams in the United States, to monitor State implementation of this section, and to advise the Director on national dam safety policy.

(2) Authority

The Board may use the expertise of Federal agencies and enter into contracts for necessary studies to carry out this section.

(3) Voting membership

The Board shall consist of 11 voting members selected by the Director for expertise in dam safety, of whom—

(A) 1 member shall represent the Department of Agriculture;

(B) 1 member shall represent the Department of Defense;

(C) 1 member shall represent the Department of the Interior;

(D) 1 member shall represent FEMA;

(E) 1 member shall represent the Federal Energy Regulatory Commission;

(F) 5 members shall be selected by the Director from among State dam safety officials; and

(G) 1 member shall be selected by the Director to represent the private sector.

(4) Nonvoting membership

The Director, in consultation with the Board, may invite a representative of the National Laboratories of the Department of Energy and may invite representatives from Federal or State agencies or dam safety experts, as needed, to participate in meetings of the Board.

(5) Duties

(A) In general

The Board shall encourage the establishment and maintenance of effective programs, policies, and guidelines to enhance dam safety for the protection of human life and property throughout the United States.

(B) Coordination and information exchange among agencies

In carrying out subparagraph (A), the Board shall encourage coordination and information exchange among Federal and State dam safety agencies that share common problems and responsibilities for dam safety, including planning, design, construction, operation, emergency action planning, inspections, maintenance, regulation or licensing, technical or financial assistance, research, and data management.

(6) Work groups

The Director may establish work groups under the Board to assist the Board in accomplishing its goals. The work groups shall consist of members of the Board and other individuals selected by the Director.

(7) Compensation of members

(A) Federal employees

Each member of the Board who is an officer or employee of the United States shall serve without compensation in addition to compensation received for the services of the member as an officer or employee of the United States.

(B) Other members

Each member of the Board who is not an officer or employee of the United States shall serve without compensation.

(8) Travel expenses

(A) Representatives of Federal agencies

To the extent amounts are made available in advance in appropriations Acts, each member of the Board who represents a Federal agency shall be reimbursed of appropriations for travel expenses by his or her agency, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, while away from the home or regular place of business of the member in the performance of services for the Board.

(B) Other individuals

To the extent amounts are made available in advance in appropriations Acts, each member of the Board who represents a State agency, the member of the Board who represents the private sector, and each member of a work group created under paragraph (1) shall be reimbursed for travel expenses by FEMA, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, while away from home or regular place of business of the member in performance of services for the Board.

(9) Applicability of Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

(Pub. L. 92–367, § 8, as added Pub. L. 104–303, title II, § 215(c)(8), Oct. 12, 1996, 110 Stat. 3688; amended Pub. L. 107–310, § 3(a)–(e)(1), (f), (g), Dec. 2, 2002, 116 Stat. 2450, 2451; Pub. L. 109–460, § 1(c), Dec. 22, 2006, 120 Stat. 3401.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (f)(9), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 467f, Pub. L. 92–367, § 7, as added Pub. L. 99–662, title XII, § 1201(b), Nov. 17, 1986, 100 Stat. 4260; amended Pub. L. 102–580, title II, § 209(a), Oct. 31, 1992, 106 Stat. 4830, related to funding for State dam safety programs, prior to repeal by Pub. L. 104–303, title II, § 215(c)(2), Oct. 12, 1996, 110 Stat. 3685.

A prior section 8 of Pub. L. 92–367 was classified to section 467g of this title prior to repeal by Pub. L. 104–303.

AMENDMENTS

2006—Subsec. (b)(1). Pub. L. 109–460, §1(c)(1), substituted ''performance measures, and target dates toward effectively administering this subchapter in order to'' for ''and target dates to''.

Subsec. (e)(2)(A). Pub. L. 109–460, §1(c)(2)(A), struck out ''substantially'' after ''to include'' in introductory provisions.

Subsec. (e)(2)(A)(iv) to (vi). Pub. L. 109–460, §1(c)(2)(B), (C), added cl. (iv) and redesignated former cls. (iv) and (v) as (v) and (vi), respectively. Former cl. (vi) redesignated (vii).

Subsec. (e)(2)(A)(vii). Pub. L. 109–460, §1(c)(2)(B), (D), redesignated cl. (vi) as (vii) and inserted ''install and monitor instrumentation,'' after ''remedial work,''. Former cl. (vii) redesignated (viii).

Subsec. (e)(2)(A)(viii) to (xi). Pub. L. 109–460, §1(c)(2)(B), redesignated cls. (vii) to (x) as (viii) to (xi), respectively.

2002—Subsec. (a)(3)(B). Pub. L. 107–310, §3(a)(1), substituted ''strategic plan described in subsection (b)'' for ''implementation plan described in subsection (e)''.

Subsec. (a)(3)(C). Pub. L. 107–310, §3(a)(2), substituted ''subsection (e)'' for ''subsection (f)''.

Subsec. (b). Pub. L. 107–310, §3(b), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''The Director shall—

''(1) not later than 270 days after October 12, 1996, develop the implementation plan described in subsection (e) of this section;

''(2) not later than 300 days after October 12, 1996, submit to the appropriate authorizing committees of Congress the implementation plan described in subsection (e) of this section; and

''(3) by regulation, not later than 360 days after October 12, 1996—

''(A) develop and implement the Program;

''(B) establish goals, priorities, and target dates for implementation of the Program; and

''(C) to the extent feasible, provide a method for cooperation and coordination with, and assistance to, interested governmental entities in all States.''

Subsec. (c)(7). Pub. L. 107–310, §3(c), added par. (7).

Subsec. (d)(3)(A). Pub. L. 107–310, §3(d), substituted ''and shall be exercised by chairing the Board to coordinate national efforts to improve the safety of the dams in the United States'' for ''and shall be exercised by chairing ICODS to coordinate Federal efforts in cooperation with State dam safety officials''.

Subsec. (e). Pub. L. 107–310, §3(e)(1), redesignated subsec. (f) as (e) and struck out heading and text of former subsec. (e). Text read as follows: ''The Director shall—

''(1) develop an implementation plan for the Program that shall set, through fiscal year 2002, year-by-year targets that demonstrate improvements in dam safety; and

''(2) recommend appropriate roles for Federal agencies and for State and local units of government, individuals, and private organizations in carrying out the implementation plan.''

Subsec. (e)(1). Pub. L. 107–310, §3(f)(1), substituted ''the Director shall provide assistance with amounts made available under section 467j of this title to assist States in establishing, maintaining, and improving dam safety programs in accordance with the criteria specified in paragraph (2).'' for ''the Director shall provide assistance with amounts made available under section 467j of this title to assist States in establishing and maintaining dam safety programs—

''(A) in accordance with the criteria specified in paragraph (2); and

''(B) in accordance with more advanced requirements and standards established by the Board and the Director with the assistance of established criteria such as the Model State Dam Safety Program published by FEMA, numbered 123 and dated April 1987, and amendments to the Model State Dam Safety Program.''

Subsec. (e)(2). Pub. L. 107–310, §3(f)(2)(A), in introductory provisions, struck out ''primary'' after ''For a State to be eligible for'' and '', and for a State to be eligible for advanced assistance under this subsection, a State dam safety program must meet the following criteria and budgeting requirement and be working toward meeting the advanced requirements and standards established under paragraph (1)(B)'' before colon.

Subsec. (e)(2)(A). Pub. L. 107–310, §3(f)(2)(B)(i), substituted ''A State'' for ''For a State to be eligible for assistance under this subsection, a State'' in introductory provisions.

Subsec. (e)(2)(A)(vi). Pub. L. 107–310, §3(f)(2)(B)(ii), inserted ''improve security,'' before ''revise operating procedures,''.

Subsec. (e)(3). Pub. L. 107–310, §3(f)(3), substituted ''agreement'' for ''contract'' in two places.

Subsec. (f). Pub. L. 107–310, §3(e)(1), redesignated subsec. (h) as (f). Former subsec. (f) redesignated (e).

Subsec. (f)(1). Pub. L. 107–310, §3(g)(1), substituted ''The Director shall establish'' for ''The Director may establish'' and ''to monitor the safety of dams in the United States, to monitor State implementation of this section, and to advise the Director on national dam safety policy'' for ''to monitor State implementation of this section''.

Subsec. (f)(3). Pub. L. 107–310, §3(g)(2)(A), (B), substituted ''Voting membership'' for ''Membership'' in heading and ''11 voting members'' for ''11 members'' in introductory provisions.

Subsec. (f)(3)(F), (G). Pub. L. 107–310, §3(g)(2)(C), added subpars. (F) and (G) and struck out former subpars. (F) and (G) which read as follows:

''(F) 5 members shall be selected by the Director from among dam safety officials of States; and

''(G) 1 member shall be selected by the Director to represent the United States Committee on Large Dams.''

Subsec. (f)(4) to (6). Pub. L. 107–310, §3(g)(3)(B), added pars. (4) to (6). Former pars. (4) to (6) redesignated (7) to (9), respectively.

Subsec. (f)(7). Pub. L. 107–310, §3(g)(3)(A), redesignated par. (4) as (7).

Subsec. (f)(8). Pub. L. 107–310, §3(g)(4), added par. (8) and struck out heading and text of former par. (8). Text read as follows: ''Each member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, while away from the home or regular place of business of the member in the performance of services for the Board.''

Pub. L. 107–310, §3(g)(3)(A), redesignated par. (5) as (8).

Subsec. (f)(9). Pub. L. 107–310, §3(g)(3)(A), redesignated par. (6) as (9).

Subsec. (g). Pub. L. 107–310, §3(e)(1), struck out heading and text of subsec. (g). Text read as follows: ''At the request of any State that has or intends to develop a State dam safety program, the Director shall provide training for State dam safety staff and inspectors.''

Subsec. (h). Pub. L. 107–310, §3(e)(1), redesignated subsec. (h) as (f).

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 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.

§ 467f–1. Lock and dam security

(a) Standards

The Secretary, in consultation with the Federal Emergency Management Agency, the Tennessee Valley Authority, and the Coast Guard, shall develop standards for the security of locks and dams, including the testing and certification of vessel exclusion barriers.

(b) Site surveys

At the request of a lock or dam owner, the Secretary shall provide technical assistance, on a reimbursable basis, to improve lock or dam security.

(c) Cooperative agreement

The Secretary may enter into a cooperative agreement with a nonprofit alliance of public and private organizations that has the mission of promoting safe waterways and seaports to carry out testing and certification activities, and to perform site surveys, under this section.

(d) Authorization of appropriations

There is authorized to be appropriated $3,000,000 to carry out this section.

(Pub. L. 110–114, title V, § 5024, Nov. 8, 2007, 121 Stat. 1203.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2007, and not as part of the National Dam Safety Program Act which comprises this subchapter.

''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.

§ 467g. Research

(a) In general

The Director, in cooperation with the Board, shall carry out a program of technical and archival research to develop and support—

(1) improved techniques, historical experience, and equipment for rapid and effective dam construction, rehabilitation, and inspection;

(2) devices for the continued monitoring of the safety of dams;

(3) development and maintenance of information resources systems needed to support managing the safety of dams; and

(4) initiatives to guide the formulation of effective public policy and advance improvements in dam safety engineering, security, and management.

(b) Consultation

The Director shall provide for State participation in research under subsection (a) of this section and periodically advise all States and Congress of the results of the research.

(Pub. L. 92–367, § 9, as added Pub. L. 104–303, title II, § 215(c)(8), Oct. 12, 1996, 110 Stat. 3692; amended Pub. L. 107–310, § 4, Dec. 2, 2002, 116 Stat. 2453.)

PRIOR PROVISIONS

A prior section 467g, Pub. L. 92–367, § 8, as added Pub. L. 99–662, title XII, § 1201(b), Nov. 17, 1986, 100 Stat. 4261, set out the requisite features of State dam safety programs and provided for program approval and periodic review, prior to repeal by Pub. L. 104–303, title II, § 215(c)(2), Oct. 12, 1996, 110 Stat. 3685.

A prior section 9 of Pub. L. 92–367 was classified to section 467h of this title prior to repeal by Pub. L. 104–303.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–310, § 4(1), in introductory provisions, substituted ''in cooperation with the Board'' for ''in cooperation with ICODS'' and inserted ''and support'' after ''develop''.

Subsec. (a)(3), (4). Pub. L. 107–310, § 4(2)–(4), added pars. (3) and (4).

§ 467g–1. Dam safety training

At the request of any State that has or intends to develop a State dam safety program, the Director shall provide training for State dam safety staff and inspectors.

(Pub. L. 92–367, § 10, as added Pub. L. 107–310, § 5(2), Dec. 2, 2002, 116 Stat. 2453.)

PRIOR PROVISIONS

A prior section 10 of Pub. L. 92–367 was renumbered section 11, and is classified to section 467h of this title.

Another prior section 10 of Pub. L. 92–367 was classified to section 467i of this title prior to repeal by Pub. L. 104–303.

§ 467h. Reports

Not later than 90 days after the end of each odd-numbered fiscal year, the Director shall submit a report to Congress that—

(1) describes the status of the Program;

(2) describes the progress achieved by Federal agencies during the 2 preceding fiscal years in implementing the Federal Guidelines for Dam Safety;

(3) describes the progress achieved in dam safety by States participating in the Program; and

(4) includes any recommendations for legislative and other action that the Director considers necessary.

(Pub. L. 92–367, § 11, formerly § 10, as added Pub. L. 104–303, title II, § 215(c)(8), Oct. 12, 1996, 110 Stat. 3692; renumbered § 11 and amended Pub. L. 107–310, §§ 5(1), 6, Dec. 2, 2002, 116 Stat. 2453.)

PRIOR PROVISIONS

A prior section 467h, Pub. L. 92–367, § 9, as added Pub. L. 99–662, title XII, § 1201(b), Nov. 17, 1986, 100 Stat. 4262, provided for creation of National Dam Safety Review Board, prior to repeal by Pub. L. 104–303, title II, § 215(c)(2), Oct. 12, 1996, 110 Stat. 3685.

A prior section 11 of Pub. L. 92–367 was renumbered section 12, and is classified to section 467i of this title.

Another prior section 11 of Pub. L. 92–367 was classified to section 467j of this title prior to repeal by Pub. L. 104–303.

AMENDMENTS

2002—Pub. L. 107–310, § 6, struck out subsec. designations and headings for subsecs. (a) and (b) and text of subsec. (a) which read as follows: ''Not later than 180 days after October 12, 1996, the Director shall report to Congress on the availability of dam insurance and make recommendations concerning encouraging greater availability.''

§ 467i. Statutory construction

Nothing in this subchapter and no action or failure to act under this subchapter shall—

(1) create any liability in the United States or its officers or employees for the recovery of damages caused by such action or failure to act;

(2) relieve an owner or operator of a dam of the legal duties, obligations, or liabilities incident to the ownership or operation of the dam; or

(3) preempt any other Federal or State law.

(Pub. L. 92–367, § 12, formerly § 11, as added Pub. L. 104–303, title II, § 215(c)(8), Oct. 12, 1996, 110 Stat. 3693; renumbered § 12, Pub. L. 107–310, § 5(1), Dec. 2, 2002, 116 Stat. 2453.)

PRIOR PROVISIONS

A prior section 467i, Pub. L. 92–367, § 10, as added Pub. L. 99–662, title XII, § 1201(b), Nov. 17, 1986, 100 Stat. 4262, related to consultation of Federal officers with State officials when dam operated or proposed by Federal agency is operated or proposed in a State, prior to repeal by Pub. L. 104–303, title II, § 215(c)(2), Oct. 12, 1996, 110 Stat. 3685.

A prior section 12 of Pub. L. 92–367 was renumbered section 13, and is classified to section 467j of this title.

Another prior section 12 of Pub. L. 92–367 was classified to section 467k of this title prior to repeal by Pub. L. 104–303.

§ 467j. Authorization of appropriations

(a) National dam safety program

(1) Annual amounts

There are authorized to be appropriated to FEMA to carry out sections 467e, 467f, and 467h of this title (in addition to any amounts made available for similar purposes included in any other Act and amounts made available under subsections (b) through (e) of this section), $6,500,000 for fiscal year 2007, $7,100,000 for fiscal year 2008, $7,600,000 for fiscal year 2009, $8,300,000 for fiscal year 2010, and $9,200,000 for fiscal year 2011, to remain available until expended.

(2) Allocation

(A) In general

Subject to subparagraphs (B) and (C), for each fiscal year, amounts made available under this subsection to carry out section 467f of this title shall be allocated among the States as follows:

(i) One-third among States that qualify for assistance under section 467f(e) of this title.

(ii) Two-thirds among States that qualify for assistance under section 467f(e) of this title, to each such State in proportion to—

(I) the number of dams in the State that are listed as State-regulated dams on the inventory of dams maintained under section 467d of this title; as compared to

(II) the number of dams in all States that are listed as State-regulated dams on the inventory of dams maintained under section 467d of this title.

(B) Maximum amount of allocation

The amount of funds allocated to a State under this paragraph may not exceed 50 percent of the reasonable cost of implementing the State dam safety program.

(C) Determination

The Director and the Board shall determine the amount allocated to States.

(b) National dam inventory

There is authorized to be appropriated to carry out section 467d of this title $650,000 for fiscal year 2007, $700,000 for fiscal year 2008, $750,000 for fiscal year 2009, $800,000 for fiscal year 2010, and $850,000 for fiscal year 2011.

(c) Research

There is authorized to be appropriated to carry out section 467g of this title $1,600,000 for fiscal year 2007, $1,700,000 for fiscal year 2008, $1,800,000 for fiscal year 2009, $1,900,000 for fiscal year 2010, and $2,000,000 for fiscal year 2011, to remain until expended.

(d) Dam safety training

There is authorized to be appropriated to carry out section 467g–1 of this title $550,000 for fiscal year 2007, $600,000 for fiscal year 2008, $650,000 for fiscal year 2009, $700,000 for fiscal year 2010, and $750,000 for fiscal year 2011.

(e) Staff

There is authorized to be appropriated to FEMA for the employment of such additional staff personnel as are necessary to carry out sections 467f through 467g–1 of this title $700,000 for fiscal year 2007, $800,000 for fiscal year 2008, $900,000 for fiscal year 2009, $1,000,000 for fiscal year 2010, and $1,100,000 for fiscal year 2011.

(f) Limitation on use of amounts

Amounts made available under this subchapter may not be used to construct or repair any Federal or non-Federal dam.

(Pub. L. 92–367, § 13, formerly § 12, as added Pub. L. 104–303, title II, § 215(c)(8), Oct. 12, 1996, 110 Stat. 3693; renumbered § 13 and amended Pub. L. 107–310, §§ 5(1), 7, Dec. 2, 2002, 116 Stat. 2453; Pub. L. 109–460, § 1(d), Dec. 22, 2006, 120 Stat. 3401.)

PRIOR PROVISIONS

A prior section 467j, Pub. L. 92–367, § 11, as added Pub. L. 99–662, title XII, § 1201(b), Nov. 17, 1986, 100 Stat. 4262; amended Pub. L. 102–580, title II, § 209(b), Oct. 31, 1992, 106 Stat. 4830, related to training for State dam safety inspectors, prior to repeal by Pub. L. 104–303, title II, § 215(c)(2), Oct. 12, 1996, 110 Stat. 3685.

A prior section 13 of Pub. L. 92–367 was classified to section 467*l* of this title prior to repeal by Pub. L. 104–303.

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109–460, § 1(d)(1), substituted "$6,500,000 for fiscal year 2007, $7,100,000 for fiscal year 2008, $7,600,000 for fiscal year 2009, $8,300,000 for fiscal year 2010, and $9,200,000 for fiscal year 2011" for "$6,000,000 for each of fiscal years 2003 through 2006".

Subsec. (b). Pub. L. 109–460, § 1(d)(2), substituted "$650,000 for fiscal year 2007, $700,000 for fiscal year 2008, $750,000 for fiscal year 2009, $800,000 for fiscal year 2010, and $850,000 for fiscal year 2011" for "$500,000 for each fiscal year".

Subsec. (c). Pub. L. 109–460, § 1(d)(3), substituted "$1,600,000 for fiscal year 2007, $1,700,000 for fiscal year 2008, $1,800,000 for fiscal year 2009, $1,900,000 for fiscal year 2010, and $2,000,000 for fiscal year 2011" for "$1,500,000 for each of fiscal years 2003 through 2006".

Subsec. (d). Pub. L. 109–460, § 1(d)(4), substituted "$550,000 for fiscal year 2007, $600,000 for fiscal year 2008, $650,000 for fiscal year 2009, $700,000 for fiscal year 2010,

and $750,000 for fiscal year 2011'' for ''$500,000 for each of fiscal years 2003 through 2006''.

Subsec. (e). Pub. L. 109–460, §1(d)(5), substituted ''$700,000 for fiscal year 2007, $800,000 for fiscal year 2008, $900,000 for fiscal year 2009, $1,000,000 for fiscal year 2010, and $1,100,000 for fiscal year 2011'' for ''$600,000 for each of fiscal years 2003 through 2006''.

2002—Subsec. (a)(1). Pub. L. 107–310, §7(a)(2), substituted ''$6,000,000 for each of fiscal years 2003 through 2006, to remain available until expended'' for ''$1,000,000 for fiscal year 1998, $2,000,000 for fiscal year 1999, $4,000,000 for fiscal year 2000, $4,000,000 for fiscal year 2001, and $4,000,000 for fiscal year 2002''.

Pub. L. 107–310, §7(a)(1), made technical amendment to reference in original act which appears in text as reference to section 467h of this title.

Subsec. (a)(2)(A)(i), (ii). Pub. L. 107–310, §7(b)(1), substituted ''section 467f(e)'' for ''section 467f(f)''.

Subsec. (a)(2)(C). Pub. L. 107–310, §7(b)(2), struck out ''needing primary assistance and States needing advanced assistance under section 467f(f) of this title'' before period at end.

Subsecs. (c) to (e). Pub. L. 107–310, §7(c), added subsecs. (c) to (e) and struck out former subsecs. (c) to (e) which authorized appropriations for fiscal years 1998 through 2002 for dam safety training, research, and staff.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 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.

§§ 467k to 467m. Repealed. Pub. L. 104–303, title II, § 215(c)(2), Oct. 12, 1996, 110 Stat. 3685

Section 467k, Pub. L. 92–367, §12, as added Pub. L. 99–662, title XII, §1201(b), Nov. 17, 1986, 100 Stat. 4262; amended Pub. L. 100–418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 102–580, title II, §209(c), Oct. 31, 1992, 106 Stat. 4830, related to development of improved dam inspection techniques.

Section 467*l*, Pub. L. 92–367, §13, as added Pub. L. 99–662, title XII, §1201(b), Nov. 17, 1986, 100 Stat. 4262; amended Pub. L. 102–580, title II, §209(d), Oct. 31, 1992, 106 Stat. 4830, related to dam inventory updates.

Section 467m, Pub. L. 92–367, §14, as added Pub. L. 99–662, title XII, §1201(b), Nov. 17, 1986, 100 Stat. 4263, provided that inspection funds were not to be used for repair or construction of any dam.

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

(a) After November 17, 1986, costs incurred in the modification by the Secretary of dams and related facilities constructed or operated by the Secretary, the cause of which results from new hydrologic or seismic data or changes in state-of-the-art design or construction criteria deemed necessary for safety purposes, shall be recovered in accordance with the provisions in this subsection:

(1) Fifteen percent of the modification costs shall be assigned to project purposes in accordance with the cost allocation in effect for the project at the time the work is initiated. Non-Federal interests shall share the costs assigned to each purpose in accord with the cost sharing in effect at the time of initial project construction: *Provided*, That the Secretary of the Interior shall recover costs assigned to irrigation in accordance with repayment provisions of Public Law 98–404.

(2) Repayment under this subsection, with the exception of costs assigned to irrigation, may be made, with interest, over a period of not more than thirty years from the date of completion of the work. The interest rate used shall be determined by the Secretary of the Treasury, taking into consideration average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the applicable reimbursable period during the month preceding the fiscal year in which the costs are incurred, plus a premium of one-eighth of one percentage point for transaction costs. To the extent that more than one interest rate is determined pursuant to the preceding sentence, the Secretary of the Treasury shall establish an interest rate at the weighted average of the rates so determined.

(b) Nothing in this section affects the authority of the Secretary to perform work pursuant to Public Law 84–99, as amended (33 U.S.C. 701n) or cost sharing for such work.

(Pub. L. 99–662, title XII, §1203, Nov. 17, 1986, 100 Stat. 4263.)

REFERENCES IN TEXT

Public Law 98–404, referred to in subsec. (a)(1), is Pub. L. 98–404, Aug. 28, 1984, 98 Stat. 1481, known as The Reclamation Safety of Dams Act Amendments of 1984, which amended sections 508 and 509 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 506 of Title 43 and Tables.

Public Law 84–99, referred to in subsec. (b), is act June 28, 1955, ch. 194, 69 Stat. 186, which amended section 701n of this title.

CODIFICATION

Section was enacted as part of the Dam Safety Act of 1986, and also as part of the Water Resources Development Act of 1986, and not as part of the National Dam Safety Program Act which comprises this subchapter.

''SECRETARY'' DEFINED

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

CHAPTER 10—ANCHORAGE GROUNDS AND HARBOR REGULATIONS GENERALLY

Sec.
471. Establishment by Secretary of Homeland Security of anchorage grounds and regulations generally.
472. Marking anchorage grounds by Commandant of the Coast Guard.
473. Repealed.
474. Anchorage and general regulations for St. Marys River.
475. Regulations for Pearl Harbor, Hawaii.
476. Restrictions on tanker traffic in Puget Sound and adjacent waters.