

United States in channel improvement, covering all matters not specifically delegated by law to some other executive department. Such regulations shall be posted, in conspicuous and appropriate places, for the information of the public; and every person and every corporation which shall violate such regulations shall be deemed guilty of a misdemeanor and, on conviction thereof in any district court of the United States within whose territorial jurisdiction such offense may have been committed, shall be punished by a fine not exceeding \$500, or by imprisonment (in the case of a natural person) not exceeding six months, in the discretion of the court.

Any regulations prescribed by the Secretary of the Army in pursuance of this section may be enforced as provided in section 413 of this title, the provisions whereof are made applicable to the said regulations.

(Aug. 18, 1894, ch. 299, § 4, 28 Stat. 362; June 13, 1902, ch. 1079, §§ 6, 11, 32 Stat. 374; Aug. 8, 1917, ch. 49, § 7, 40 Stat. 266; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### CODIFICATION

The first paragraph of this section is from section 4 of act Aug. 18, 1894, popularly known as the "River and Harbor Act of 1894", as amended.

As originally enacted, said section 4 made it the duty of the Secretary of War to prescribe rules and regulations for the use, administration, and navigation of any or all canals and similar works of navigation owned, operated, or maintained by the United States, and provided for the posting of such regulations and the punishment of violations thereof.

Said section 4 was amended by section 11 of act June 13, 1902, principally by adding to the original section provisions authorizing the Secretary also to prescribe regulations to govern the speed and movement of vessels and other water craft in any public navigable channel which had been improved under authority of Congress, whenever in his judgment such regulations were necessary to protect such improved channel from injury or to prevent interference with the operations of the United States in improving navigable waters or injury to any plant that might be employed in such operations.

Section 4 was also amended by section 7 of act Aug. 8, 1917, to read as set forth in the first paragraph hereof.

The last paragraph of this section is from section 6 of act June 13, 1902. Said section 6 is also the source of the last proviso in section 499 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.

#### RULES AND REGULATIONS

Administrative provisions covering definitions which the Coast Guard uses to examine waters to determine whether the Coast Guard has jurisdiction on those waters under particular laws of the United States are set out in chapter I, subchapter A, part 2, of Title 33, Navigation and Navigable Waters, in the Code of Federal Regulations. Such part 2, consisting of sections 2.01-1 to 2.10-10, sets out definitions of jurisdictional terms and provides for the availability of jurisdictional decisions.

## § 2. Regulations for navigation of South and Southwest Passes of Mississippi River; penalties

The Secretary of the Army is authorized to make such rules and regulations for the navigation of the South and Southwest Passes of the Mississippi River as to him shall seem necessary or expedient for the purpose of preventing any obstruction to the channels through said South and Southwest Passes and any injury to the works therein constructed. The term "South and Southwest Passes", as employed in this section, shall be construed as embracing the entire extent of channel in each case, between the upper ends of the works at the head of the pass and the outer or sea ends of the jetties at the entrance from the Gulf of Mexico; and any willful violation of any rule or regulation made by the Secretary of the Army in pursuance of this section shall be deemed a misdemeanor, for which the owner or owners, agent or agents, master or pilot of the vessel so offending shall be separately or collectively responsible, and on conviction thereof shall be punished by a fine of not less than \$100, nor exceeding \$500, or by imprisonment for not exceeding three months, or by both fine and imprisonment, at the discretion of the court.

(Mar. 3, 1909, ch. 264, § 5, 35 Stat. 818; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### CODIFICATION

These provisions were part of section 5 of act Mar. 3, 1909, popularly known as the "River and Harbor Appropriation Act of 1909".

These provisions superseded previous similar provisions relating to the navigation of the South Pass only, contained in act Aug. 11, 1888, ch. 860, § 5, 25 Stat. 424, amended by act Sept. 19, 1890, ch. 907, § 3, 26 Stat. 452.

#### 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.

## § 3. Regulations to prevent injuries from target practice

*Authority to adopt regulations*—In the interest of the national defense, and for the better protection of life and property on the navigable waters of the United States, the Secretary of the Army is authorized and empowered to prescribe such regulations as he may deem best for the use and navigation of any portion or area of the navigable waters of the United States or waters under the jurisdiction of the United States endangered or likely to be endangered by Artillery fire in target practice or otherwise, or by the proving operations of the Government ordnance proving grounds at Sandy Hook, New Jersey, or at any Government ordnance proving ground that may be established elsewhere on or near such waters, and of any portion or area of said waters occupied by submarine mines, mine fields, submarine cables, or other material and

accessories pertaining to seacoast fortifications, or by any plant or facility engaged in the execution of any public project of river and harbor improvement; and the said Secretary shall have like power to regulate the transportation of explosives upon any of said waters: *Provided*, That the authority conferred shall be so exercised as not unreasonably to interfere with or restrict the food fishing industry, and the regulations prescribed in pursuance hereof shall provide for the use of such waters by food fishermen operating under permits granted by the Department of the Army.

*Detail of vessels to enforce regulations*—To enforce the regulations prescribed pursuant to this section, the Secretary of the Army, may detail any public vessel in the service of the Department of the Army, or, upon the request of the Secretary of the Army, the head of any other department may enforce, and the head of any such department is authorized to enforce, such regulations by means of any public vessel of such department.

*Posting and violation of regulations*—The regulations made by the Secretary of the Army pursuant to this section shall be posted in conspicuous and appropriate places, designated by him, for the information of the public; and every person who and every corporation which shall willfully violate any regulations made by the said Secretary pursuant to this section shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be punished by a fine not exceeding \$500, or by imprisonment (in the case of a natural person) not exceeding six months, in the discretion of the court.

*Venue and jurisdiction of offenses; procedure*—Offenses against the provisions of this section, or any regulation made pursuant thereto, committed in any Territory or other place subject to the jurisdiction of the United States where there is no court having general jurisdiction of crimes against the United States, shall be cognizable in any court of such place or Territory having original jurisdiction of criminal cases in the place or Territory in which the offense has been committed, with the same right of appeal in all cases as is given in other criminal cases where imprisonment not exceeding six months forms a part of the penalty, and jurisdiction is conferred upon such courts and such courts shall exercise the same for such purposes; and in case any such offense be committed beyond the territorial jurisdiction of any court having jurisdiction thereof, the offense shall be deemed and held to have been committed within the jurisdiction in which the offender may be found or into which he is first brought, and shall be tried by the court having jurisdiction thereof.

(July 9, 1918, ch. 143, subch. XIX, §§1-4, 40 Stat. 892, 893; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### CODIFICATION

Undesignated pars. 1 to 4 of this section are from sections 1 to 4, respectively, of act July 9, 1918, popularly known as the "Army Appropriation Act of 1919".

Undesignated pars. 1 and 2 of this section superseded similar provisions of act Aug. 8, 1917, ch. 49, §8, 40 Stat. 266.

#### 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.

Coast Artillery changed to Artillery under authority of section 306(a) of act June 28, 1950, ch. 383, title III, 64 Stat. 269. Section 306(a) of act June 28, 1950 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 section 3063 continued the Artillery as a basic branch of the Army.

#### TRANSFER OF FUNCTIONS

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(55)], July 22, 1949.

#### § 4. Water gauges on Mississippi River and tributaries

The Secretary of the Army is authorized and directed to have water gauges established, and daily observations made of the rise and fall of the Mississippi River and its tributaries.

For the purpose of securing the uninterrupted gauging of the waters of the Mississippi River and its tributaries, as provided for in this section, upon the application of the Chief of Engineers, the Secretary of the Army is authorized to draw his warrant or requisition, from time to time, upon the Secretary of the Treasury for such sums as may be necessary to do such work, not to exceed in the aggregate for each year the sum of \$9,600.

(R.S. §5252; Aug. 11, 1888, ch. 860, §6, 25 Stat. 424; June 13, 1902, ch. 1079, §9, 32 Stat. 374; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Aug. 30, 1954, ch. 1076, §1(15), 68 Stat. 967.)

#### CODIFICATION

R.S. §5252 derived from Res. Feb. 21, 1871, No. 40, 16 Stat. 598.

The first paragraph of this section is from R.S. §5252, which, as enacted, authorized and directed the establishment of water gauges and the making of daily observations at or in the vicinity of certain enumerated places, and at such other places as the Secretary of War might deem advisable. It further provided that the expenditure should be made from the appropriation for the improvement of rivers and harbors and that the annual cost of the observations should not exceed \$5,000. These latter provisions were apparently modified by section 6 of act Aug. 11, 1888, as amended by section 9 of act June 13, 1902, which was substantially the second paragraph of this section. As originally enacted, section 6 of act Aug. 11, 1888, provided for the gauging of the waters of the Lower Mississippi and tributaries, and limited the cost for each year to the amount appropriated in the act for such purpose.

#### AMENDMENTS

1954—Act Aug. 30, 1954, repealed proviso requiring that an itemized statement of expenses incurred in gauging waters of the Mississippi River and its tributaries, as provided in this section, should accompany the annual report of the Chief of Engineers.