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#### 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 L. 89-670, and repealed section 6(g)(6)(A).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 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.

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#### § 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 navi-

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 Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641.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

#### SHORT TITLE

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

#### TRANSFER OF FUNCTIONS

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#### 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

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#### § 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 occu-