

angle point on the easterly side of said Delaware Avenue south of Washington Avenue;

thence extending along the easterly side of said Delaware Avenue the following courses and distances, (1) north 0 degree 45 minutes 33.2 seconds west 2,524.698 feet to a point; (2) north 9 degrees 36 minutes 25 seconds east, 2,168.160 feet to a point; (3) north 13 degrees 26 minutes 45.8 seconds east, 2,039.270 feet to a point; (4) north 20 degrees 12 minutes 52.4 seconds east, 35.180 feet to an angle point in Delaware Avenue; thence continuing north 20 degrees 12 minutes 52.4 seconds east along the said bulkhead line, the distance of 574.970 feet to a point on the south house line of Callowhill Street produced;

thence extending along the south house line of Callowhill Street produced south 80 degrees 47 minutes 30.6 seconds east, the distance of 523.908 feet to a point on the pierhead line of the Delaware River (approved by the Secretary of War on September 10, 1940);

thence extending along the said pierhead line the following courses and distances, (1) south 17 degrees 52 minutes 48.5 seconds west, 605.262 feet to a point; (2) south 14 degrees 14 minutes 14.7 seconds west, 1,372.530 feet to a point; (3) south 10 degrees 37 minutes 35.3 seconds west, 1,252.160 feet to a point; (4) south 8 degrees 23 minutes 50.4 seconds west, 1,450.250 feet to a point; (5) south 2 degrees 22 minutes 45.9 seconds west, 1,221.670 feet to a point; (6) south 1 degree 4 minutes 36 seconds east, 1,468.775 feet to a point on the north house line of Catherine Street extended, thence extending north 76 degrees 56 minutes 29.2 seconds west, the distance of 555.911 feet to the first mentioned point and place of beginning is hereby declared not to be a navigable water of the United States within the meaning of the Constitution and laws of the United States, and the Consent of Congress is hereby given, for the filling or erection of permanent structures in all or any part of the described area.

(Pub. L. 92-605, §1, Oct. 31, 1972, 86 Stat. 1493.)

#### 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 Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641.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.

#### PERMANENT STRUCTURES IN ABOVE-DESCRIBED AREA; APPROVAL OF PLANS

Pub. L. 92-605, §2, Oct. 31, 1972, 86 Stat. 1494, provided that: "This declaration [this section] shall apply only to portions of the above-described area which are filled or occupied by permanent structures. No such filling or erection of structures in the above-described area shall be commenced until the plans therefor have been approved by the Secretary of the Army who shall, prior to granting such approval, give consideration to all factors affecting the general public interest and the impact of the proposed work on the environment."

#### § 59j-1. Declaration of nonnavigability for portions of the Delaware River

##### (a) Area to be declared non-navigable; public interest

Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects in Philadelphia, Pennsylvania, to be undertaken within the boundaries described below, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of the Delaware River, bounded and described as follows, are declared to be non-navigable waters of the United States:

- (1) LIBERTY LANDING. [Omitted]
- (2) MARINA TOWERS AND WORLD TRADE CENTER—PIER 25 NORTH. [Omitted]
- (3) MARINE TRADE CENTER—PIER 24 NORTH. [Omitted]
- (4) NATIONAL SUGAR COMPANY "SUGAR HOUSE". [Omitted]
- (5) RIVERCENTER. [Omitted]

##### (b) Limits on applicability; regulatory requirements

The declaration under subsection (a) of this section shall apply only to those parts of the areas described in subsection (a) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including, but not necessarily limited to, sections 401 and 403 of this title, section 1344 of this title, and the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

##### (c) Expiration date

If, 20 years from November 17, 1988, any area or part thereof described in subsection (a) (except 30 years from November 17, 1988, in the case of the area or any part thereof described in subsection (a)(5)) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (b) of this section, or if work in connection with any activity permitted in subsection (b) of this section is not commenced within 5 years after issuance of such permits, then the declaration of non-navigability for such area or part thereof shall expire.

(Pub. L. 100-676, §38, Nov. 17, 1988, 102 Stat. 4032; Pub. L. 110-114, title III, §3181(g), Nov. 8, 2007, 121 Stat. 1162.)

#### REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

#### CODIFICATION

The text of the boundary descriptions contained in pars. (1) to (5) of subsec. (a), which is not set out in the Code, appears at 102 Stat. 4032 to 4038.

#### AMENDMENTS

2007—Subsec. (c). Pub. L. 110-114 substituted "subsection (a) (except 30 years from November 17, 1988, in

the case of the area or any part thereof described in subsection (a)(5))” for “subsection (a) of this section”.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 100-676, set out as a note under section 2201 of this title.

**§ 59k. Wicomico River, Maryland**

(a) If the Secretary of the Army acting through the Chief of Engineers, finds that the proposed project in Salisbury, Maryland, to be undertaken at the locations to be declared non-navigable under this section is in the public interest, on the basis of engineering studies to determine the location and structural stability of any bulkheading and filling and permanent pile-supported structures, in order to preserve and maintain the remaining navigable waterway and on the basis of environmental studies conducted pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], then those portions of the South Prong of the Wicomico River in Wicomico County, State of Maryland, bounded and described as follows, are declared to be not a navigable water of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given, consistent with subsection (b) of this section, to the filling in of a part thereof or the erection of permanent pile-supported structures thereon: That portion of the South Prong of the Wicomico River in Salisbury, Maryland, bounded on the east by the west side of United States Route 13; on the west by the west side of the Mill Street Bridge; on the south by a line five feet landward from the present water's edge at high tide extending the entire length of the South Prong from the east boundary at United States Route 13 to the west boundary at the Mill Street Bridge; and on the north by a line five feet landward from the present water's edge at high tide extending the entire length of the South Prong from the east boundary at United States Route 13 to the west boundary at the Mill Street Bridge.

(b) This declaration shall apply only to the portions of the areas described in subsection (a) of this section which are bulkheaded and filled or occupied by permanent pile-supported structures. Plans for bulkheading and filling and permanent pile-supported structures shall be approved by the Secretary of the Army, acting through the Chief of Engineers. Such bulkheaded and filled areas or areas occupied by permanent pile-supported structures shall not reduce the existing width of the Wicomico River to less than sixty feet and a minimum depth of five feet shall be maintained within such sixty-foot width of the Wicomico River. Local interests shall reimburse the Federal Government for engineering and all other costs incurred under this section.

(Pub. L. 93-251, title I, §97, Mar. 7, 1974, 88 Stat. 40.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in text, is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and

Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

**§ 59l. Nonapplicability of prohibitions and provisions for review and approval concerning wharves and piers**

The prohibitions and provisions for review and approval concerning wharves and piers in waters of the United States as set forth in sections 403 and 565 of this title shall not apply to any body of water located entirely within one State which is, or could be, considered to be a navigable body of water of the United States solely on the basis of historical use in interstate commerce.

(Pub. L. 94-587, §154, Oct. 22, 1976, 90 Stat. 2932.)

**§ 59m. Lake Oswego, Oregon; Lake Coeur d'Alene, Idaho; and Lake George, New York**

For the purposes of section 403 of this title the following bodies of water are declared non-navigable: Lake Oswego, Oregon; Lake Coeur d'Alene, Idaho; and Lake George, New York.

(Pub. L. 94-587, §162, Oct. 22, 1976, 90 Stat. 2934.)

CODIFICATION

“Section 403 of this title” substituted in text for “section 10 of the Act of March 3, 1899 (30 Stat. 1151) (33 U.S.C. 401)” as the probable intent of Congress in that section 10 of said act is set out as section 403 of this title while section 401 of this title is based on section 9 of the act of Mar. 3, 1899.

**§ 59n. Hudson River, Hudson County, New Jersey**

(a) If the Secretary of the Army, acting through the Chief of Engineers, finds that the proposed project to be erected at the location to be declared nonnavigable under this section is in the public interest, on the basis of engineering studies to determine the location and structural stability of any bulkheading and filling and permanent pile-supported structure, in order to preserve and maintain the remaining navigable waterway and on the basis of environmental studies conducted pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], then that portion of the Hudson River in Hudson County, State of New Jersey, bounded and described as follows is hereby declared to be nonnavigable water of the United States within the meaning of the laws of the United States, and the consent of Congress is hereby given to the filling in of all or any part thereof and the erection of permanent pile-supported structures thereon:

Such portion is in the township of North Bergen in the county of Hudson and State of New Jersey, and is more particularly described as follows: At a point in the easterly right-of-way of New Jersey Shore Line Railroad (formerly New Jersey Junction Railroad) said point being located northerly, measured along said easterly right-of-way, 81.93 feet from Station 54+42.4 as shown on construction drawing dated May 23, 1931, of River Road, filed in the Office of the Hudson County Engineer, Jersey City, New Jersey:

thence (1) northerly and along said easterly right-of-way on a bearing of north 12 degrees 11 minutes 14 seconds east, a distance of 280 feet to a point;