

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 Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641.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 L. 89-670, and repealed section 6(g)(6)(A).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). 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

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

(b) Removal requirement

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

(c) Liability of owner, lessee, or operator

The owner, lessee, or operator of such vessel, boat, watercraft, raft, or other obstruction as

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

(Mar. 3, 1899, ch. 425, § 20, 30 Stat. 1154; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 99-662, title IX, § 939(b), Nov. 17, 1986, 100 Stat. 4199; Pub. L. 104-303, title II, § 218(b), Oct. 12, 1996, 110 Stat. 3696.)

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).

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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.

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