

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; Pub. L. 114-120, title III, §306(b)(1)(A), Feb. 8, 2016, 130 Stat. 55.)

#### Editorial Notes

##### 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known as the "Rivers and Harbors Appropriation Act of 1899", and together with section 403 of this title effectively superseded act Sept. 19, 1890, ch. 907, §7, 26 Stat. 454, as amended generally by act July 13, 1892, ch. 158, §3, 27 Stat. 88, which prohibited the erection of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

2016—Pub. L. 114-120 substituted "Secretary of the department in which the Coast Guard is operating" for "Secretary of Transportation" wherever appearing.

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.

#### Statutory Notes and Related Subsidiaries

##### TRANSFER OF FUNCTIONS

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).

#### Executive Documents

##### 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.

#### § 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.)

#### Editorial Notes

##### CODIFICATION

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

#### Statutory Notes and Related Subsidiaries

##### 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 of 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.)

#### Editorial Notes

##### CODIFICATION

Section is from act Mar. 3, 1899, popularly known as the “Rivers and Harbors Appropriation Act of 1899”, and together with section 401 of this title effectively superseded act Sept. 19, 1890, ch. 907, §7, 26 Stat. 454, as amended generally 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.

#### Statutory Notes and Related Subsidiaries

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##### TRANSFER OF FUNCTIONS

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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).

##### EXPEDITING REPAIRS AND RECOVERY FROM FLOODING

Pub. L. 116-260, div. AA, title I, §122, Dec. 27, 2020, 134 Stat. 2635, provided that:

“(a) IN GENERAL.—To the maximum extent practicable, during the 5-year period beginning on the date of enactment of this Act [Dec. 27, 2020], the Secretary [of the Army] shall prioritize and expedite the processing of applications for permits under section 10 of the Act of March 3, 1899 (33 U.S.C. 403), and section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and permissions under section 14 of the Act of March 3, 1899 (33 U.S.C. 408), to complete repairs, reconstruction (including improvements), and upgrades to flood control infrastructure damaged by flooding events during calendar years 2017 through 2020, including flooding events caused by ice jams.

“(b) SAVINGS PROVISION.—Nothing in this section affects any obligation to comply with the requirements of any Federal law, including—

“(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(2) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

“(3) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).”

#### Executive Documents

##### 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.

#### § 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.)

#### Editorial Notes

##### 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