

Sec.

## SUBCHAPTER V—NAVIGABLE WATERS OF MARYLAND

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## SUBCHAPTER I—IN GENERAL

**§ 400. Continuing authority programs****(1) Definition of continuing authority program project**

In this section, the term “continuing authority program” means 1 of the following authorities:

- (A) Section 701s of this title.
- (B) Section 426i of this title.
- (C) Section 2330 of this title.
- (D) Section 2309a of this title.
- (E) Section 577 of this title.
- (F) Section 426g of this title.
- (G) Section 701r of this title.
- (H) Section 103 of the River and Harbor Act of 1962 (Public Law 87-874; 76 Stat. 1178).
- (I) Section 2326(e) of this title.
- (J) Section 701b-8a of this title.
- (K) Section 610(a) of this title.

**(2) Prioritization**

Not later than 1 year after June 10, 2014, the Secretary shall publish in the Federal Register and on a publicly available website, the criteria the Secretary uses for prioritizing annual funding for continuing authority program projects.

**(3) Annual report**

Not later than 1 year after June 10, 2014, and each year thereafter, the Secretary shall publish in the Federal Register and on a publicly available website, a report on the status of each continuing authority program, which, at a minimum, shall include—

- (A) the name and a short description of each active continuing authority program project;
- (B) the cost estimate to complete each active project; and
- (C) the funding available in that fiscal year for each continuing authority program.

**(4) Congressional notification**

On publication in the Federal Register under paragraphs (2) and (3), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a copy of all information published under those paragraphs.

(Pub. L. 113-121, title I, §1030(a), June 10, 2014, 128 Stat. 1231.)

**Editorial Notes**

## REFERENCES IN TEXT

Section 103 of the River and Harbor Act of 1962, referred to in par. (1)(H), is section 103 of Pub. L. 87-874, title I, Oct. 23, 1962, 76 Stat. 1178. Section 103(a)(1)-(3) of Pub. L. 87-874 amended section 426e of this title. Section 103(a)(4) of Pub. L. 87-874 amended sections 426f and 426g of this title. Section 103(b) of Pub. L. 87-874 is set out as a note under section 426 of this title. Section 103(c) of Pub. L. 87-874 is not classified to the Code.

**Statutory Notes and Related Subsidiaries**

## “SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

**§ 401. Construction of bridges, causeways, dams or dikes generally; exemptions**

It shall not be lawful to construct or commence the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained and until the plans for (1) the bridge or causeway shall have been submitted to and approved by the Secretary of the department in which the Coast Guard is operating, or (2) the dam or dike shall have been submitted to and approved by the Chief of Engineers and Secretary of the Army. However, such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the Secretary of the department in which the Coast Guard is operating or by the Chief of Engineers and Secretary of the Army before construction is commenced. When plans for any bridge or other structure have been approved by the Secretary of the department in which the Coast Guard is operating or by the Chief of Engineers and Secretary of the Army, it shall not be lawful to deviate from such plans either before or after completion of the structure unless modification of said plans has previously been submitted to and received the approval of the Secretary of the department in which the Coast Guard is operating or the Chief of Engineers and the Secretary of the Army. The approval required by this section of the location and plans or any modification of plans of any bridge or causeway does not apply to any bridge or causeway over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use

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

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. 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.

#### § 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,