

(c) Timely review**(1) Complete application**

On or before the date that is 30 days after the date on which the Secretary receives an application for permission to take action affecting public projects pursuant to subsection (a), the Secretary shall inform the applicant whether the application is complete and, if it is not, what items are needed for the application to be complete.

(2) Decision

On or before the date that is 90 days after the date on which the Secretary receives a complete application for permission under subsection (a), the Secretary shall—

- (A) make a decision on the application; or
- (B) provide a schedule to the applicant identifying when the Secretary will make a decision on the application.

(3) Notification to Congress

In any case in which a schedule provided under paragraph (2)(B) extends beyond 120 days from the date of receipt of a complete application, the Secretary shall provide to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an explanation justifying the extended timeframe for review.

(d) Work Defined

For the purposes of this section, the term “work” shall not include unimproved real estate owned or operated by the Secretary as part of a water resources development project if the Secretary determines that modification of such real estate would not affect the function and usefulness of the project.

(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; Pub. L. 114-322, title I, §1156(a), Dec. 16, 2016, 130 Stat. 1664; Pub. L. 115-270, title I, §1165, Oct. 23, 2018, 132 Stat. 3797.)

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b)(1), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, 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

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Section superseded act Sept. 19, 1890, ch. 907, §9, 26 Stat. 426, which prohibited persons taking possession of or using or injuring government works in navigable waters.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

2018—Subsec. (d). Pub. L. 115-270 added subsec. (d).

2016—Pub. L. 114-322 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

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 occupation or use will not be injurious to public interest and will not impair usefulness of such work.

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, 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).

§ 408a. Expediting approval of modifications and alterations of projects by non-Federal interests**(a) Section 14 application defined**

In this section, the term “section 14 application” means an application submitted by an applicant to the Secretary requesting permission for the temporary occupation or use of a public work, or the alteration or permanent occupation or use of a public work, under section 14 of the Act of March 3, 1899 (commonly known as the “Rivers and Harbors Appropriation Act of 1899”) (33 U.S.C. 408).

(b) Review

Not later than 1 year after June 10, 2014, the Secretary, after providing notice and an opportunity for comment, shall establish a process for the review of section 14 applications in a timely and consistent manner.

(c) Benchmark goals**(1) Establishment of benchmark goals**

In carrying out subsection (b), the Secretary shall—

(A) establish benchmark goals for determining the amount of time it should take the Secretary to determine whether a section 14 application is complete;

(B) establish benchmark goals for determining the amount of time it should take the Secretary to approve or disapprove a section 14 application; and

(C) to the extent practicable, use such benchmark goals to make a decision on section 14 applications in a timely and consistent manner.

(2) Benchmark goals**(A) Benchmark goals for determining whether section 14 applications are complete**

To the extent practicable, the benchmark goals established under paragraph (1) shall provide that—

(i) the Secretary reach a decision on whether a section 14 application is complete not later than 15 days after the date of receipt of the application; and

(ii) if the Secretary determines that a section 14 application is not complete, the Secretary promptly notify the applicant of the specific information that is missing or the analysis that is needed to complete the application.

(B) Benchmark goals for reviewing completed applications

To the extent practicable, the benchmark goals established under paragraph (1) shall provide that—

(i) the Secretary generally approve or disapprove a completed section 14 application not later than 45 days after the date of receipt of the completed application; and

(ii) in a case in which the Secretary determines that additional time is needed to review a completed section 14 application due to the type, size, cost, complexity, or impacts of the actions proposed in the application, the Secretary generally approve or disapprove the application not later than 180 days after the date of receipt of the completed application.

(3) Notice

In any case in which the Secretary determines that it will take the Secretary more than 45 days to review a completed section 14 application, the Secretary shall—

(A) provide written notification to the applicant; and

(B) include in the written notice a best estimate of the Secretary as to the amount of time required for completion of the review.

(d) Failure to achieve benchmark goals

In any case in which the Secretary fails make¹ a decision on a section 14 application in accordance with the process established under this section, the Secretary shall provide written notice to the applicant, including a detailed description of—

(1) why the Secretary failed to make a decision in accordance with such process;

(2) the additional actions required before the Secretary will issue a decision; and

(3) the amount of time the Secretary will require to issue a decision.

(e) Notification**(1) Submission to Congress**

The Secretary shall provide a copy of any written notice provided under subsection (d) to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) Public availability

The Secretary shall maintain a publicly available database, including on the Internet, on—

(A) all section 14 applications received by the Secretary; and

(B) the current status of such applications.

(f) Guidance**(1) In general**

Not later than 120 days after December 16, 2016, the Secretary shall issue guidance on the implementation of this section.

(2) Incorporation

In issuing guidance under paragraph (1), or any other regulation, guidance, or engineering circular related to activities covered under section 408 of this title, the Secretary shall incorporate the requirements under this section.

(g) Prioritization

The Secretary shall prioritize and complete the activities required of the Secretary under this section.

(Pub. L. 113-121, title I, §1007, June 10, 2014, 128 Stat. 1214; Pub. L. 114-322, title I, §1156(b), Dec. 16, 2016, 130 Stat. 1665.)

Editorial Notes

AMENDMENTS

2016—Subsecs. (f), (g). Pub. L. 114-322 added subsecs. (f) and (g).

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.

§ 409. Obstruction of navigable waters by vessels; floating timber; marking and removal of sunken vessels

It shall not be lawful to tie up or anchor vessels or other craft in navigable channels in such a manner as to prevent or obstruct the passage of other vessels or craft; or to sink, or permit or cause to be sunk, vessels or other craft in navigable channels; or to float loose timber and logs, or to float what is known as “sack rafts of timber and logs” in streams or channels actually navigated by steamboats in such manner as to obstruct, impede, or endanger navigation. And whenever a vessel, raft or other craft is wrecked and sunk in a navigable channel, it shall be the duty of the owner, lessee, or operator of such sunken craft to immediately mark it with a buoy or beacon during the day and, unless otherwise granted a waiver by the Commandant of the Coast Guard, a light at night, and to maintain such marks until the sunken craft is removed or abandoned, and the neglect or failure of the said owner, lessee, or operator so to do shall be unlawful; and it shall be the duty of the owner, lessee, or operator of such sunken craft to commence the immediate removal of the same, and prosecute such removal diligently, and failure to do so shall be considered as an abandonment of such craft, and subject the

¹ So in original. Probably should be preceded by “to”.