

TITLE 33--NAVIGATION AND NAVIGABLE WATERS
CHAPTER 9--PROTECTION OF NAVIGABLE WATERS AND OF HARBOR AND RIVER IMPROVEMENTS
GENERALLY
SUBCHAPTER I--IN GENERAL

Sec. 408. Taking possession of, use of, or injury to harbor or river improvements

It shall not be lawful for any person or persons to take possession of or make use of for any purpose, or build upon, alter, deface, destroy, move, injure, obstruct by fastening vessels thereto or otherwise, or in any manner whatever impair the usefulness of any sea wall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the United States, or any piece of plant, floating or otherwise, used in the construction of such work under the control of the United States, in whole or in part, for the preservation and improvement of any of its navigable waters or to prevent floods, or as boundary marks, tide gauges, surveying stations, buoys, or other established marks, nor remove for ballast or other purposes any stone or other material composing such works: Provided, That the Secretary of the Army may, on the recommendation of the Chief of Engineers, grant permission for the temporary occupation or use of any of the aforementioned public works when in his judgment such occupation or use will not be injurious to the public interest: Provided further, That the Secretary may, on the recommendation of the Chief of Engineers, grant permission for the alteration or permanent occupation or use of any of the aforementioned public works when in the judgment of the Secretary such occupation or use will not be injurious to the public interest and will not impair the usefulness of such work.

(Mar. 3, 1899, ch. 425, Sec. 14, 30 Stat. 1152; July 26, 1947, ch. 343, title II, Sec. 205(a), 61 Stat. 501; Pub. L. 99-88, title I, Sec. 100, Aug. 15, 1985, 99 Stat. 315.)

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Section superseded act Sept. 19, 1890, ch. 907, Sec. 9, 26 Stat. 426, which prohibited persons taking possession of or using or injuring government works in navigable waters.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, Sec. 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work of the United States for the improvement of rivers or harbors or navigation, was probably omitted from the Code as superseded by this section.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

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.

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, Sec. 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).