

**Executive Documents**

## EXECUTIVE ORDER NO. 11574

Ex. Ord. No. 11574, Dec. 23, 1970, 35 F.R. 19627, which provided for administration of a permit program to regulate discharge of pollutants and other refuse matter into navigable waters or their tributaries and placement of such matter on their banks, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

**§ 407a. Deposit of debris of mines and stamp works**

In places where harbor-lines have not been established, and where deposits of debris of mines or stamp works can be made without injury to navigation, within lines to be established by the Secretary of the Army, said officer may, and is authorized to, cause such lines to be established; and within such lines such deposits may be made, under regulations to be from time to time prescribed by him.

(Aug. 5, 1886, ch. 929, §2, 24 Stat. 329; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

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 Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641.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 L. 89-670, and repealed section 6(g)(6)(A).

**§ 408. Taking possession of, use of, or injury to harbor or river improvements****(a) Prohibitions and permissions**

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 aforemen-

tioned 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.

**(b) Concurrent review****(1) NEPA review****(A) In general**

In any case in which an activity subject to this section requires a review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), review and approval of the activity under this section shall, to the maximum extent practicable, occur concurrently with any review and decisions made under that Act.

**(B) Corps of Engineers as a cooperating agency**

If the Corps of Engineers is not the lead Federal agency for an environmental review described in subparagraph (A), the Corps of Engineers shall, to the maximum extent practicable and consistent with Federal laws—

(i) participate in the review as a cooperating agency (unless the Corps of Engineers does not intend to submit comments on the project); and

(ii) adopt and use any environmental document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) by the lead agency to the same extent that a Federal agency could adopt or use a document prepared by another Federal agency under—

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

(II) parts 1500 through 1508 of title 40, Code of Federal Regulations (or successor regulations).

**(2) Reviews by Secretary**

In any case in which the Secretary must approve an action under this section and under another authority, including sections 401 and 403 of this title, section 1344 of this title, and section 1413 of this title, the Secretary shall—

(A) coordinate applicable reviews and, to the maximum extent practicable, carry out the reviews concurrently; and

(B) adopt and use any document prepared by the Corps of Engineers for the purpose of complying with the same law and that addresses the same types of impacts in the same geographic area if such document, as determined by the Secretary, is current and applicable.

**(3) Contributed funds**

The Secretary may accept and expend funds received from non-Federal public or private entities to evaluate under this section an alteration or permanent occupation or use of a work built by the United States.

**(c) Review process****(1) Consistency**

The Secretary shall establish clear, concise, and specific guidance to be used within the Corps of Engineers and by non-Federal entities developing applications for permission standardizing the review process across Districts.

**(2) Preapplication meeting**

At the request of a non-Federal entity that is planning on submitting an application for permission pursuant to subsection (a), the Secretary shall meet with the non-Federal entity to—

(A) provide clear, concise, and specific design standards that the non-Federal entity must use in the development of the application;

(B) recommend, based on coordination with the non-Federal entity, the appropriate number of design packages for submission for the proposed action, and the stage of development at which such packages should be submitted; and

(C) identify potential concerns or conflicts with such proposed actions.

**(3) Contributed funds**

The Secretary may use funds accepted from a non-Federal entity under subsection (b)(3) for purposes of conducting a meeting described in paragraph (2).

**(d) 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.

**(e) 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; Pub. L. 118–272, div. A, title I, § 1105, Jan. 4, 2025, 138 Stat. 3001.)

**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

2025—Subsecs. (c) to (e). Pub. L. 118–272 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

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.

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**§ 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 make<sup>1</sup> 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).

<sup>1</sup> So in original. Probably should be preceded by “to”.