

THE RIVERS AND HARBORS ACT

Acronym: RHA, The Refuse Act

Citation: 33 U.S.C. §§ 401-467 (2002).

Legislative Purpose:

The Rivers and Harbors Act authorizes the Secretary of the Army to maintain freedom of navigation and prevent obstructions in waters of the United States.

Summary:

The Rivers and Harbors Act was originally enacted in 1899 to prohibit the deposit or discharge from any ship or other floating craft, or from shore installations (such as wharves, manufacturing establishments, or mills) of any refuse matter into a U.S. navigable water or its tributary. The act prohibits the deposit of material on the bank of any navigable waters or their tributaries where navigation may be impeded.

Exceptions are made for the construction of public works and for the improvement of navigable waters. In addition, the Secretary may permit the deposit of materials otherwise outlawed in navigable waters upon the advice of the Chief Engineer with some limits. The law provides for fines in the amount of \$500 to \$2500 for violations which are designated misdemeanors, as well as imprisonment from 30 days to one year. The law further provides that one-half of the fine is to be paid to the person giving information which leads to the conviction.

While the initial purpose of the act was to prevent obstructions to navigation, the Supreme Court decision in *United States v. Republic Steel Corp* (1959) interpreted the obstruction to navigation to include water pollution. The Court found that anything within the limits of the jurisdiction of the United States which tends to destroy the navigable capacity of a navigable waterway is prohibited by the act. Thus, the discharge into a navigable river of industrial wastes reducing the depth of the channel could properly be viewed as an obstruction. By relaxing the standards by which obstruction had previously been defined, the Court cleared the way for the use of the act in pollution control cases.

TITLE 33. NAVIGATION AND NAVIGABLE WATERS

CHAPTER 9. PROTECTION OF NAVIGABLE WATERS AND OF HARBOR AND RIVER IMPROVEMENTS

33 U.S.C. §§ 401-467 (2002).

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

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 Transportation, 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 Transportation 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 Transportation 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 Transportation 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.

§ 402. Construction of bridges, etc. over Illinois and Mississippi Canal

The provisions of section nine of the river and harbor Act of March 3, 1899 [*33 USC § 401*], are hereby made applicable alike to the completed and uncompleted portions of the Illinois and Mississippi Canal. Whenever the Secretary of War [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.

§ 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 hereby 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 War [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 War [Secretary of the Army] prior to beginning the same.

§ 405. Establishment and modification of harbor lines on Potomac and Anacostia Rivers

The provisions of section eleven of the river and harbor act of March third, eighteen hundred and ninety-nine [33 USC § 404] are hereby made applicable to the Potomac and Anacostia Rivers, and hereafter [after July 25, 1912] harbor lines in the District of Columbia, or elsewhere on said rivers, shall be established or modified as therein provided.

§ 406. Penalty for wrongful construction of bridges, piers, etc.; removal of structures

Every person and every corporation that shall violate any of the provisions of sections nine, ten, and eleven of this Act [33 USC § § 401, 403, and 404], or any rule or regulation made by the Secretary of War [Secretary of the Army] in pursuance of the provisions of said section eleven [33 USC § 404], shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding \$ 2,500 nor less than \$ 500, 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. And further, the removal of any structures or parts of structures erected in violation of the provisions of the said sections may be enforced by the injunction of any circuit court [district court] exercising jurisdiction in any district in which such structures may exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States.

§ 407. Deposit of refuse in navigable waters generally

It shall not be lawful to throw, discharge, or deposit, or cause, suffer, or procure to be thrown, discharged, or deposited either from or out of any ship, barge, or other floating craft of any kind, or from the shore, wharf, manufacturing establishment, or mill of any kind, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state, into any navigable water of the United States, or into any tributary of any navigable water from which the same shall float or be washed into such navigable water; and it shall not be lawful to deposit, or cause, suffer, or procure to be deposited material of any kind in any place on the bank of any navigable water, or on the bank of any tributary of any navigable water, where the same shall be liable to be washed into such navigable water, either by ordinary or high tides, or by storms or floods, or otherwise, whereby navigation shall or may be impeded or obstructed: Provided, That nothing herein contained shall extend to, apply to, or prohibit the operations in connection with the improvement of navigable waters or construction of public works, considered necessary and proper by the United States officers supervising such improvement or

public work: And provided further, That the Secretary of War [Secretary of the Army], whenever in the judgment of the Chief of Engineers anchorage and navigation will not be injured thereby, may permit the deposit of any material above mentioned in navigable waters, within limits to be defined and under conditions to be prescribed by him, provided application is made to him prior to depositing such material; and whenever any permit is so granted the conditions thereof shall be strictly complied with, and any violation thereof shall be unlawful.

§ 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 a lighted lantern 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 same to removal by the United States as hereinafter provided for.

§ 410. Exception as to floating loose timber, sack rafts, etc.; violation of regulations; penalty
The prohibition contained in section fifteen of the river and harbor Act, approved March 3, 1899 [*33 USC § 409*], against floating loose timber and logs, or sack rafts, so called, of timber and logs in streams or channels actually navigated by steamboats, shall not apply to any navigable river or waterway of the United States or any part thereof whereon the floating of loose timber and logs and sack rafts of timber and logs is the principal method of navigation. But such method of navigation on such river or waterway or part thereof shall be subject to the rules and regulations prescribed by the Secretary of War [Secretary of the Army] as hereinafter provided.

The Secretary of War [Secretary of the Army] shall have power, and he is hereby authorized and directed, within the shortest practicable time after the passage hereof [enacted May 9, 1900], to prescribe rules and regulations, which he may at any time modify, to govern and regulate the floating of loose timber and logs, and sack rafts, (so called) of timber and logs and other methods of navigation on the streams and waterways, or any thereof, of the character, as to navigation, heretofore in section one [this section] hereof described. The said rules and regulations shall be so framed as to equitably adjust conflicting interests between the different methods or forms of navigation; and the said rules and regulations shall be published at least once in such newspaper or newspapers of general circulation as in the opinion of the Secretary of War [Secretary of the Army] shall be best adapted to give notice of said rules and regulations to persons affected thereby and locally interested therein. And all modifications of said rules and regulations shall be similarly published. And such rules and regulations when so prescribed and published as to any such stream

or waterway shall have the force of law, and any violation thereof shall be a misdemeanor, and every person convicted of such violation shall be punished by a fine of not exceeding \$ 2,500 nor less than \$ 500, or by imprisonment (in case of a natural person) for not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court: Provided, That the proper action to enforce the provisions of this section may be commenced before any commissioner [United States magistrate judge], judge, or court of the United States, and such commissioner [United States magistrate judge], judge, or court shall proceed in respect thereto as authorized by law in the case of crimes or misdemeanors committed against the United States.

The right to alter, amend, or repeal this Act [this section] at any time is hereby reserved.

§ 411. Penalty for wrongful deposit of refuse; use of or injury to harbor improvements, and obstruction of navigable waters generally

Every person and every corporation that shall violate, or that shall knowingly aid, abet, authorize, or instigate a violation of the provisions of sections 13, 14, 15, 19, and 20 of this Act [33 USC § § 407, 408, 409, 414, 415] shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of up to \$ 25,000 per day, or by imprisonment (in the case of a natural person) for not less than thirty days nor more than one year, or by both such fine and imprisonment, in the discretion of the court, one-half of said fine to be paid to the person or persons giving information which shall lead to conviction.

§ 413. Duty of United States attorneys and other Federal officers in enforcement of provisions; arrest of offenders

The Department of Justice shall conduct the legal proceedings necessary to enforce the foregoing provisions of sections nine to sixteen [33 USC § § 401, 403, 404, 406, 407, 408, 409, 411, and 412], inclusive, of this Act; and it shall be the duty of district attorneys of the United States [United States attorneys] to vigorously prosecute all offenders against the same whenever requested to do so by the Secretary of War [Secretary of the Army] or by any of the officials hereinafter designated, and it shall furthermore be the duty of said district attorneys [United States attorneys] to report to the Attorney General of the United States the action taken by him against offenders so reported, and a transcript of such reports shall be transmitted to the Secretary of War [Secretary of the Army] by the Attorney General; and for the better enforcement of the said provisions and to facilitate the detection and bringing to punishment of such offenders, the officers and agents of the United States in charge of river and harbor improvements, and the assistant engineers and inspectors employed under them by authority of the Secretary of War [Secretary of the Army], and the United States collectors of customs and other revenue officers [Secretary of the Treasury], shall have power and authority to swear out process and to arrest and take into custody, with or without process, any person or persons who may commit any of the acts or offenses prohibited by the aforesaid sections of this Act, or who may violate any of the provisions of the same: Provided, That no person shall be arrested without process for any offense not committed in the presence of some one of the aforesaid officials: And provided further, That whenever any arrest is made under the provisions of this Act, the person so arrested shall be brought forthwith before a commissioner [United States magistrate judge], judge, or court of the United States for examination of the offenses alleged against him; and such

commissioner [United States magistrate judge], judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States.

§ 414. Removal by Secretary of the Army of sunken water craft generally; liability of owner, lessee, or operator

(a) Whenever the navigation of any river, lake, harbor, sound, bay, canal, or other navigable waters of the United States shall be obstructed or endangered by any sunken vessel, boat, water craft, raft, or other similar obstruction, and such obstruction has existed for a longer period than thirty days, or whenever the abandonment of such obstruction can be legally established in a less space of time, the sunken vessel, boat, water craft, raft, or other obstruction shall be subject to be broken up, removed, sold, or otherwise disposed of by the Secretary of War [Secretary of the Army] at his discretion, without liability for any damage to the owners of the same: Provided, That in his discretion, the Secretary of War [Secretary of the Army] may cause reasonable notice of such obstruction of not less than thirty days, unless the legal abandonment of the obstruction can be established in a less time, to be given by publication, addressed "To whom it may concern," in a newspaper published nearest to the locality of the obstruction, requiring the removal thereof: And provided also, That the Secretary of War [Secretary of the Army] may, in his discretion, at or after the time of giving such notice, cause sealed proposals to be solicited by public advertisement, giving reasonable notice of not less than ten days, for the removal of such obstruction as soon as possible after the expiration of the above specified thirty days' notice, in case it has not in the meantime been so removed, these proposals and contracts, at his discretion, to be conditioned that such vessel, boat, water craft, raft, or other obstruction, and all cargo and property contained therein, shall become the property of the contractor, and the contract shall be awarded to the bidder making the proposition most advantageous to the United States: Provided, That such bidder shall give satisfactory security to execute the work: Provided further, That any money received from the sale of any such wreck, or from any contractor for the removal of wrecks, under this paragraph shall be covered into the Treasury of the United States.

(b) The owner, lessee, or operator of such vessel, boat, watercraft, raft, or other obstruction as described in this section shall be liable to the United States for the cost of removal or destruction and disposal as described which exceeds the costs recovered under subsection (a). Any amount recovered from the owner, lessee, or operator of such vessel pursuant to this subsection to recover costs in excess of the proceeds from the sale or disposition of such vessel shall be deposited in the general fund of the Treasury of the United States.

§ 415. Summary removal of water craft obstructing navigation; liability of owner, lessee, or operator

(a) Removal of water craft obstructing navigation. Under emergency, in the case of any vessel, boat, water craft, or raft, or other similar obstruction, sinking or grounding, or being unnecessarily delayed in any Government canal or lock, or in any navigable waters mentioned in section nineteen [33 USC § 414], in such manner as to stop, seriously interfere with, or specially endanger navigation, in the opinion of the Secretary of War [Secretary of the Army], or any agent of the United States to whom the Secretary may delegate proper authority, the Secretary of War [Secretary of the Army] or any such agent shall have the

right to take immediate possession of such boat, vessel, or other water craft, or raft, so far as to remove or to destroy it and to clear immediately the canal, lock, or navigable waters aforesaid of the obstruction thereby caused, using his best judgment to prevent any unnecessary injury; and no one shall interfere with or prevent such removal or destruction: Provided, That the officer or agent charged with the removal or destruction of an obstruction under this section may in his discretion give notice in writing to the owners of any such obstruction requiring them to remove it: And provided further, That the actual expense, including administrative expenses, of removing any such obstruction as aforesaid shall be a charge against such craft and cargo; and if the owners thereof fail or refuse to reimburse the United States for such expense within thirty days after notification, then the officer or agent aforesaid may sell the craft or cargo, or any part thereof that may not have been destroyed in removal, and the proceeds of such sale shall be covered into the Treasury of the United States.

(b) Removal requirement. Not later than 24 hours after the Secretary of the Department in which the Coast Guard is operating issues an order to stop or delay navigation in any navigable waters of the United States because of conditions related to the sinking or grounding of a vessel, the owner or operator of the vessel, with the approval of the Secretary of the Army, shall begin removal of the vessel using the most expeditious removal method available or, if appropriate, secure the vessel pending removal to allow navigation to resume. If the owner or operator fails to begin removal or to secure the vessel pending removal or fails to complete removal on an expedited basis, the Secretary of the Army shall remove or destroy the vessel using the summary removal procedures under subsection (a).

(c) Liability of owner, lessee, or operator. The owner, lessee, or operator of such vessel, boat, watercraft, raft, or other obstruction as described in this section shall be liable to the United States for the actual cost, including administrative costs, of removal or destruction and disposal as described which exceeds the costs recovered under subsection (a). Any amount recovered from the owner, lessee, or operator of such vessel pursuant to this subsection to recover costs in excess of the proceeds from the sale or disposition of such vessel shall be deposited in the general fund of the Treasury of the United States.

§ 418. Provisions for protection of New York harbor unaffected

All laws or parts of laws inconsistent with the foregoing sections nine to twenty, inclusive, of this Act [33 USC § § 401, 403, 404, 406, 407, 408, 409, 411--416, 418 and 502] are hereby repealed: Provided, That no action begun or right of action accrued prior to the passage of this Act [enacted March 3, 1899] shall be affected by this repeal: Provided further, That nothing contained in the said foregoing sections shall be construed as repealing, modifying, or in any manner affecting the provisions of an Act of Congress approved June twenty-ninth, eighteen hundred and eighty-eight, entitled "An Act to prevent obstructive and injurious deposits within the harbor and adjacent waters of New York City, by dumping or otherwise, and to punish and prevent such offenses," as amended by section three of the river and harbor Act of August eighteenth, eighteen hundred and ninety-four [33 USC § § 441 et seq.].

§ 419. Regulation by Secretary governing transportation and dumping of dredgings, refuse, etc., into navigable waters; oyster lands; appropriations

The Secretary of War [Secretary of the Army] is hereby authorized and empowered to prescribe regulations to govern the transportation and dumping into any navigable water, or waters adjacent thereto, of dredgings, earth, garbage, and other refuse materials of every kind or description, whenever in his judgment such regulations are required in the interest of navigation. Such regulations shall be posted in conspicuous and appropriate places for the information of the public; and every person or corporation which shall violate the said regulations, or any of them, shall be deemed guilty of a misdemeanor and shall be subject to the penalties prescribed in section sixteen of the river and harbor Act of March 3, 1899 [33 USC § § 411 and 412], for violation of the provisions of section thirteen of the said Act [33 USC § 407]: Provided, That any regulations made in pursuance hereof may be enforced as provided in section seventeen of the aforesaid Act of March 3, 1899 [33 USC § 413], the provisions whereof are hereby made applicable to the said regulations: Provided further, That this section shall not apply to any waters within the jurisdictional boundaries of any State which are now or may hereafter be used for the cultivation of oysters under the laws of such State, except navigable channels which have been or may hereafter be improved by the United States, or to be designated as navigable channels by competent authority, and in making such improvements of channels, the material dredged shall not be deposited upon any ground in use in accordance with the laws of such State for the cultivation of oysters, except in compliance with said laws: And provided further, That any expense necessary in executing this section may be paid from funds available for the improvement of the harbor or waterway, for which regulations may be prescribed, and in case no such funds are available the said expense may be paid from appropriations made by Congress for examinations, surveys, and contingencies of rivers and harbors.

§ 421. Deposit of refuse, etc., in Lake Michigan near Chicago

It shall not be lawful to throw, discharge, dump, or deposit, or cause, suffer, or procure, to be thrown, discharged, dumped, or deposited, any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state into Lake Michigan, at any point opposite or in front of the county of Cook, in the State of Illinois, or the county of Lake in the State of Indiana, within eight miles from the shore of said lake, unless said material shall be placed inside of a breakwater so arranged as not to permit the escape of such refuse material into the body of the lake and cause contamination thereof; and no officer of the Government shall dump or cause or authorize to be dumped any material contrary to the provisions of this Act [this section]: Provided, however, That the provisions of this Act [this section] shall not apply to work in connection with the construction, repair, and protection of breakwaters and other structures built in aid of navigation, or for the purpose of obtaining water supply. Any person violating any provision of this Act [this section] shall be guilty of a misdemeanor, and on conviction thereof shall be fined for each offense not exceeding one thousand dollars.

§ 424a. Modification of harbor lines in Newport Harbor, California

The Secretary of War [Secretary of the Army] is hereby authorized to modify, from time to time, the harbor lines at Newport Harbor, California, established in pursuance of section 3 of the River and Harbor Act of July 27, 1916 [33 USC § 424]: Provided, That in his opinion such modification will not injuriously affect the interests of navigation.

§ 426. Investigations concerning erosion of shores of coastal and lake waters

The Chief of Engineers of the United States Army, under the direction of the Secretary of the Army, is authorized and directed to cause investigations and studies to be made in cooperation with the appropriate agencies of the various States on the Atlantic, Pacific, and gulf coasts and on the Great Lakes, and of the States of Alaska and Hawaii, the Commonwealth of Puerto Rico, and the possessions of the United States, with a view to devising effective means of preventing erosion of the shores of coastal and lake waters by waves and currents; and any expenses incident and necessary thereto may be paid from funds appropriated for General Investigations, Civil Functions, Department of the Army: Provided, That the Department of the Army may release to the appropriate cooperating agencies information obtained by these investigations and studies prior to the formal transmission of reports to Congress: Provided further, That no money shall be expended under authority of this section in any State which does not provide for cooperation with the agents of the United States and contribute to the project such funds or services as the Secretary of the Army may deem appropriate and require; that there shall be organized under the Chief of Engineers, United States Army, a Board of seven members, of whom four shall be officers of the Corps of Engineers and three shall be civilian engineers selected by the Chief of Engineers with regard to their special fitness in the field of beach erosion and shore protection. The Board will furnish such technical assistance as may be directed by the Chief of Engineers in the conduct of such studies as may be undertaken and will review the reports of the investigations made. In the consideration of such studies as may be referred to the Board by the Chief of Engineers, the Board shall, when it considers it necessary and with the sanction of the Chief of Engineers, make, as a board or through its members, personal examination of localities under investigation: Provided further, That the civilian members of the Board may be paid at rates not to exceed \$ 100 a day for each day of attendance at Board meetings, not to exceed thirty days per annum, in addition to the traveling and other necessary expenses connected with their duties on the Board in accordance with the provisions of section 5 of the Administrative Expenses Act of 1946, as amended (*5 USC 73b-2*).

§ 426-3. Transfer of functions of Beach Erosion Board

All functions of the Beach Erosion Board pertaining to review of reports of investigations made concerning erosion of the shores of coastal and lake waters, and the protection of such shores, are hereby transferred to the Board established by section 3 of the River and Harbor Act approved June 13, 1902, as amended (*33 USC 541*), referred to as the Board of Engineers for Rivers and Harbors.

§ 426a. Additional investigations concerning erosion of shores of coastal and lake waters; payment of costs; definition of shores

In addition to participating in cooperative investigations and studies with agencies of the various States as authorized in section 2 of the River and Harbor Act, approved July 3, 1930 [*33 USC § 426*], it shall be the duty of the Chief of Engineers, through the Beach Erosion Board [Coastal Engineering Research Center], to make general investigations with a view to preventing erosion of the shores of the United States by waves and currents and determining the most suitable methods for the protection, restoration, and development of beaches; and to publish from time to time such useful data and information concerning the erosion and protection of beaches and shore lines as the Board [Center] may deem to be of value to the people of the United States. The cost of the general investigations herein authorized shall be borne wholly

by the United States. As used in this Act [33 USC § § 426a--426d], the word "shores" includes the shore lines of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, Lake Champlain, and estuaries and bays directly connected therewith.

§ 426c. Report by Coastal Engineering Research Center

The Beach Erosion Board [Coastal Engineering Research Center], in making its report on any cooperative investigation and studies under the provisions of section 2 of the River and Harbor Act, approved July 3, 1930 [33 USC § 426], relating to shore protection work shall, in addition to any other matters upon which it may be required to report, state its opinion as to (a) the advisability of adopting the project; (b) what public interest, if any, is involved in the proposed improvement; and (c) what share of the expense, if any, should be borne by the United States.

§ 426e. Federal aid in protection of shores

(a) Declaration of policy. With the purpose of preventing damage to the shores and beaches of the United States, its Territories and possessions and promoting and encouraging the healthful recreation of the people, it is hereby declared to be the policy of the United States, subject to this Act, to promote shore protection projects and related research that encourage the protection, restoration, and enhancement of sandy beaches, including beach restoration and periodic beach nourishment, on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprises. In carrying out this policy, preference shall be given to areas in which there has been a Federal investment of funds and areas with respect to which the need for prevention or mitigation of damage to shores and beaches is attributable to Federal navigation projects or other Federal activities.

(b) Federal contribution; maximum amount; exceptions. The Federal contribution in the case of any project referred to in subsection (a) shall not exceed one-half of the cost of the project, and the remainder shall be paid by the State, municipality, or other political subdivision in which the project is located, except that (1) the costs allocated to the restoration and protection of Federal property shall be borne fully by the Federal Government, (2) Federal participation in the cost of a project for restoration and protection of State, county, and other publicly owned shore parks and conservation areas may be, in the discretion of the Chief of Engineers, not more than 70 per centum of the total cost exclusive of land costs, when such areas: Include a zone which excludes permanent human habitation; include but are not limited to recreational beaches; satisfy adequate criteria for conservation and development of the natural resources of the environment; extend landward a sufficient distance to include, where appropriate, protective dunes, bluffs, or other natural features which serve to protect the uplands from damage; and provide essentially full park facilities for appropriate public use, all of which shall meet with the approval of the Chief of Engineers, and (3) Federal participation in the cost of a project providing hurricane protection may be, in the discretion of the Secretary not more than 70 per centum of the total cost exclusive of land costs[.]

(c) Periodic beach nourishment; definition of "construction". When in the opinion of the Chief of Engineers the most suitable and economical remedial measures would be provided by periodic beach nourishment, the term "construction" may be construed for the purposes of this Act [33 USC § § 426e-426h] to include

the deposit of sand fill at suitable intervals of time to furnish sand supply to project shores for a length of time specified by the Chief of Engineers.

(d) Shores other than public. Shores other than public will be eligible for Federal assistance if there is benefit such as that arising from public use or from the protection of nearby public property or if the benefits to those shores are incidental to the project, and the Federal contribution to the project shall be adjusted in accordance with the degree of such benefits.

(e) Authorization of projects.

(1) In general. No Federal contribution shall be made with respect to a project under this Act [33 USC §§ 426e-426h] unless the plan therefor shall have been specifically adopted and authorized by Congress after investigation and study by the Beach Erosion Board [Coastal Engineering Research Center] under the provisions of section 2 of the River and Harbor Act approved July 3, 1930 [33 USC § 426], as amended and supplemented, or, in the case of a small project under section 3 or 5 of this Act [33 USC § 426g or 426h], unless the plan therefor has been approved by the Chief of Engineers.

(2) Studies.

(A) In general. The Secretary shall--

(i) recommend to Congress studies concerning shore protection projects that meet the criteria established under this Act (including subparagraph (B)(iii)) and other applicable law;

(ii) conduct such studies as Congress requires under applicable laws; and

(iii) report the results of the studies to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(B) Recommendations for shore protection projects.

(i) In general. The Secretary shall recommend to Congress the authorization or reauthorization of shore protection projects based on the studies conducted under subparagraph (A).

(ii) Considerations. In making recommendations, the Secretary shall consider the economic and ecological benefits of the shore protection project.

(C) Coordination of projects. In conducting studies and making recommendations for a shore protection project under this paragraph, the Secretary shall--

(i) determine whether there is any other project being carried out by the Secretary or the head of another Federal agency that may be complementary to the shore protection project; and

(ii) if there is such a complementary project, describe the efforts that will be made to coordinate the projects.

(3) Shore protection projects.

(A) In general. The Secretary shall construct, or cause to be constructed, any shore protection project authorized by Congress, or separable element of such a project, for which funds have been appropriated by Congress.

(B) Agreements.

(i) Requirement. After authorization by Congress, and before commencement of construction, of a shore protection project or separable element, the Secretary shall enter into a written agreement with a non-Federal interest with respect to the project or separable element.

(ii) Terms. The agreement shall--

(I) specify the life of the project; and

(II) ensure that the Federal Government and the non-Federal interest will cooperate in carrying out the project or separable element.

(C) Coordination of projects. In constructing a shore protection project or separable element under this paragraph, the Secretary shall, to the extent practicable, coordinate the project or element with any complementary project identified under paragraph (2)(C).

§ 465. Authority to dredge; riparian rights of United States

Subject to the provisions of section 10 of the River and Harbor Act approved March 3, 1899 [33 USC § 403], authority is hereby granted to dredge, without cost to the United States, in the navigable waters of the United States included within the State of Maryland and outside the limits of projects for improvement of navigation facilities approved by Congress, regardless of rights accruing to the United States as riparian owner under the laws of the State of Maryland: Provided, That in the opinion of the Chief of Engineers such dredging will improve facilities for navigation.