

# **Protection of Navigable Waters and of Harbor and River Improvements Generally**

## **33 USC Chapter 9**

**THIS DOCUMENT CONTAINS ONLY THE SECTIONS  
NEEDED FOR THE API 1169 ICP EXAMS**

## Sections

### Subchapter I – In General

**33 U.S. Code § 401** - Construction of bridges, causeways, dams or dikes generally; exemptions

**33 U.S. Code § 403** - Obstruction of navigable waters generally; wharves; piers, etc.; excavations and filling in

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**33 U.S. Code Chapter 9, Subchapter I – In General**

**33 U.S. Code § 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.)

**33 U.S. Code § 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, lake, harbor or 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 the Army prior to beginning the same.

(Mar. 3, 1899, ch. 425, § 10, 30 Stat. 1151; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

### **33 U.S. Code § 403a - Creation or continuance of obstruction of navigable waters**

The creation of any obstruction, not affirmatively authorized by law, to the navigable capacity of any waters, in respect of which the United States has jurisdiction, is hereby prohibited. The continuance of any such obstruction, except bridges, piers, docks, and wharves, and similar structures erected for business purposes, whether heretofore or hereafter created, shall constitute an offense and each week's continuance of any such obstruction shall be deemed a separate offense. Every person and every corporation which shall be guilty of creating or continuing any such unlawful obstruction in this act mentioned, or who shall violate the provisions of the last four preceding sections of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding five thousand dollars, 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, the creating or continuing of any unlawful obstruction in this act mentioned may be prevented and such obstruction may be caused to be removed by the injunction of any district court exercising jurisdiction in any district in which such obstruction may be threatened or may exist; and proper proceedings in equity to this end may be instituted under the direction of the Attorney-General of the United States.

(Sept. 19, 1890, ch. 907, § 10, 26 Stat. 454; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

### **33 U.S. Code § 404 - Establishment of harbor lines; conditions to grants for extension of piers, etc.**

Where it is made manifest to the Secretary of the Army that the establishment of harbor lines is essential to the preservation and protection of harbors he may, and is, authorized to cause such lines to be established, beyond which no piers, wharves, bulkheads, or other works shall be extended or deposits made, except under such regulations as may be prescribed from time to time by him: *Provided*, That, whenever the Secretary of the Army grants to any person or persons permission to extend piers, wharves, bulkheads, or other works, or to make deposits in any tidal harbor or river of the United States beyond any harbor lines established under authority of the United States, he shall cause to be ascertained the amount of tidewater displaced by any such structure or by any such deposits, and he shall, if he deem it necessary, require the parties to whom the permission is given to make compensation for such displacement either by excavating in some part of the harbor, including tidewater channels between high and low water mark, to such an extent as to create a basin for as much tidewater as may be displaced by such structure or by such deposits, or in any other mode that may be satisfactory to him.

(Mar. 3, 1899, ch. 425, § 11, 30 Stat. 1151; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

**33 U.S. Code § 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 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.

(Mar. 3, 1899, ch. 425, § 13, 30 Stat. 1152; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)