§ 5. Abolition of tolls on Government canals, canalized rivers, etc.; expense of operation, repairs to and reconstruction of canals, etc.; Panama Canal excepted; levies by non-Federal interest

(a) No tolls or operating charges whatever shall be levied upon or collected from any vessel, dredge, or other water craft for passing through any lock, canal, canalized river, or other work for the use and benefit of navigation, now belonging to the United States or that may be hereafter acquired or constructed; and for the purpose of preserving and continuing the use and navigation of said canals and other public works without interruption, the Secretary of the Army, upon the recommendation of the Chief of Engineers, United States Army, is authorized to draw his warrant or requisition, from time to time, upon the Secretary of the Treasury to pay the actual expenses of operating, maintaining, and keeping said works in repair, which warrants or requisitions shall be paid by the Secretary of the Treasury out of any money in the Treasury not otherwise appropriated: Provided, That whenever, in the judgment of the Secretary of the Army, the condition of any of the aforesaid works is such that its entire reconstruction is absolutely essential to its efficient and economical maintenance and operation as herein provided for, the reconstruction thereof may include such modifications in plan and location as may be necessary to provide adequate facilities for existing navigation: Provided further, That the modifications are necessary to make the reconstructed work conform to similar works previously authorized by Congress and forming a part of the same improvement, and that such modifications shall be considered and approved by the Board of Engineers for Rivers and Harbors and be recommended by the Chief of Engineers before the work of reconstruction is commenced: And provided further, That nothing contained in this section shall be held to apply to the Panama Canal.

(b) No taxes, tolls, operating charges, fees, or any other impositions whatever shall be levied upon or collected from any vessel or other water craft, or from its passengers or crew, by any non-Federal interest, if the vessel or water craft is operating on any navigable waters subject to the authority of the United States, or under the right to freedom of navigation on those waters, except for—

(1) fees charged under section 2236 of this title;
(2) reasonable fees charged on a fair and equitable basis that—
   (A) are used solely to pay the cost of a service to the vessel or water craft;
   (B) enhance the safety and efficiency of interstate and foreign commerce; and
   (C) do not impose more than a small burden on interstate or foreign commerce; or
(3) property taxes on vessels or watercraft, other than vessels or watercraft that are primarily engaged in foreign commerce if those taxes are permissible under the United States Constitution.


Codification

Section is from act July 5, 1884, popularly known as the “Rivers and Harbors Appropriation Act of 1884”.

The section, as originally enacted, was as follows:

“No tolls or operating charges whatsoever shall be levied or collected upon any vessel or vessels, dredges, or other passing water-craft through any canal or other work for the improvement of navigation belonging to the United States; and for the purpose of preserving and continuing the use and navigation of said canals, rivers, and other public works without interruption, the Secretary of War, upon the application of the chief engineer in charge of said works, is hereby authorized to draw his warrant or requisition from time to time upon the Secretary of the Treasury to pay the actual expenses of operating and keeping said works in repair, which warrants or requisitions shall be paid by the Secretary...
of the Treasury, out of any money in the Treasury not otherwise appropriated: Provided, however, That an itemized statement of said expenses shall accompany the annual report of the chief of engineers.”

It was amended by act March 3, 1909, to read substantially as set forth above.

Amendments


2002—Pub. L. 107–295 designated existing provisions as subsec. (a) and added subsec. (b).

1954—Act Aug. 30, 1954, repealed last proviso requiring that an itemized statement of expenses incurred in operating, maintaining, keeping in repair, and reconstructing locks, canals, etc., other than the Panama Canal, as provided in this section, should accompany the annual report of the Chief of Engineers.

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.

Effective Date of 2003 Amendment


Termination of Board of Engineers for Rivers and Harbors and Reassignment of Duties and Responsibilities

For termination of Board of Engineers for Rivers and Harbors 180 days after Oct. 31, 1992, and reassignment of duties and responsibilities by Secretary of Army, see section 223 of Pub. L. 102–580, set out as a note under section 541 of this title.

Appropriations

Section 2 of act June 26, 1934, ch. 756, 48 Stat. 1225, which was classified to section 725a of former Title 31, Money and Finance, repealed the permanent appropriation under the title “Operating and care of canals and other works of navigation (8x881)” effective July 1, 1935, and provided that such portions of any Acts as make permanent appropriations to be expended under such account are amended so as to authorize, in lieu thereof, annual appropriations from the general fund of the Treasury in identical terms and in such amounts as now provided by the laws providing such permanent appropriations.