

under section 17 of the Act of March 3, 1899. In a situation requiring immediate action, the District Engineer may report the case directly to the U.S. attorney for the district. The Chief of Engineers will be advised of such action by a written report. Although the Corps of Engineers has certain police powers under this Act it has been the long standing policy to secure compliance with its provisions short of legal proceedings. Accordingly every effort will be made to accomplish corrective measures prior to initiation of action leading to such proceedings. As a general rule, while minor and unintentional or accidental violations of the provisions of the Act need not be reported to the Chief of Engineers, all willful or intentional violations and all cases in which the parties responsible refuse or neglect to remove the unlawful structure or deposit or to make good the damages suffered should be reported promptly to the Chief of Engineers in accordance with the above. It is the policy not to recommend prosecution when the violation of law is trivial, apparently unpremeditated, and results in no material public injury. Each report recommending prosecution should be accompanied by a full statement of the case and copies of correspondence relating thereto.

(5) The procedure in cases involving injurious deposits is similar to that described for other violations of law except that as the damage caused thereby cannot be repaired readily there will be no reason for serving any notice on the parties responsible for the violations further than to bring to their attention the consequences thereof.

(6) Section 6 of the river and Harbor Act approved March 3, 1905 (33 Stat. 1148; 33 U.S.C. 417) provides that expenses incurred by the Corps of Engineers in all investigations, inspections, hearings, reports, service of notice, or other action incidental to examinations into alleged violations of laws for protection and preservation of navigable waters shall be payable from any funds which may be available for the improvement, maintenance, operation, or care of the waterways or harbors affected. If such funds are not available in sums judged by the Chief of Engineers to be adequate, they shall be pay-

able from any funds available for examinations, surveys, and contingencies of rivers and harbors.

[33 FR 18670, Dec. 18, 1968, as amended at 36 FR 17855, Sept. 4, 1971; 51 FR 45765, Dec. 22, 1986; 53 FR 27512, July 21, 1988]

**§ 209.180 Temporary closure of waterway to navigation.**

(a) When an application is received for the temporary closure of a waterway for the construction of a structure or the performance of other work in the waterway, the District Engineer will assure himself of the necessity for the closure and arrange after informal communication with any important navigation interests concerned the time and duration of the closure which will enable the operations to be completed with the least interference with navigation. If there is no question as to the necessity and propriety of the closure, the District Engineer is authorized to inform the applicant as follows: "The Department of the Army will interpose no objection to the closure for a stated period beginning at a specified date: *Provided*, That prior thereto the applicant will notify navigation interests by an advertisement in the press or otherwise as the District Engineer may approve and on the understanding that the waiver of objection does not affect the liability of the applicant for any damages that may arise by reason of the closure." The letter to the applicant will be signed "By Authority of the Secretary of the Army" and distribution made as prescribed for permits.

(b) District Engineers will give careful consideration to the effect of any closure on through navigation. Should coordination with other districts be necessary the case will be forwarded to the Division Engineer for such coordination.

(c) Cases not falling within the authority above conferred will be forwarded to the Chief of Engineers with the recommendations of the Division and District Engineers.