



DEPARTMENT OF THE ARMY

**U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314**

**REPLY TO
ATTENTION OF:**

DAEN-CWR-R

11 FEB 1982

SUBJECT: Implementation of Section 6, P.L. 97-140

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1. The purpose of this letter is to provide guidance respecting observance and implementation of Section 6 of H.R. 779 which was signed into law by the President 29 December 1981 (P.L. 97-140) and reads as follows:

"Sec 6. Notwithstanding any other provision of law, no houseboat, floating cabin, marina (including any with sleeping facilities), or lawfully installed dock or cabin and appurtenant structures shall be required to be removed before December 31, 1989, from any Federal water resources reservoir or lake project administered by the Secretary of the Army, acting through the Chief of Engineers, on which it was located on the date of enactment of this Act, if such property is maintained in usable condition, and, in the judgment of the Chief of Engineers, does not occasion a threat to life or property."

2. This establishes a moratorium until 31 December 1989 on enforced removal of certain existing private exclusive use type structures, including houseboats, which have been authorized or permitted on project areas under the jurisdiction of the Corps of Engineers prior to enactment of Public Law 97-140. It should be noted that Section 6 does not extend protection to illegal structures or encroachments. However, based on recent Office Chief Counsel opinion, the following points are emphasized:

a. Section 6 applies to land based facilities as well as water based facilities.

b. The term "cabin" includes cabins, cottages, mobile homes, non-transient trailers and other similar structures used for human habitation.

c. The Corps of Engineers is precluded from requiring transfer of individual ownership of such lawfully installed structures for club or organizational use. Such a requirement is considered to constitute removal under Section 6 of Public Law 97-140.

3. Implementation of Section 6 will restrain, until 31 December 1989, certain previously planned actions prior to that date for removal of private exclusive uses under your respective approved regional plans. The only exceptions for earlier enforced removal of a structure covered by Section 6 would be in the case of a structure not maintained in usable condition or presenting a threat to life or property. Any such case must be clearly

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demonstrated and supported. Established policy and procedures for addressing private exclusive use at Corps projects are not otherwise affected by Section 6. Accordingly, you are encouraged to pursue your efforts toward curing encroachment problems, and to continue addressing private exclusive uses in your respective commands as provided in your regional plans. Modifications to your approved regional plans should be made to comport with Section 6 and be submitted by 1 May 1982 to DAEN-CWO for approval.

4. For your information, I have inclosed copies of the related pages of the Congressional Record, Senate and House, 16 December 1981, which demonstrate Congressional intent in enactment of H.R. 779. Also inclosed is a Statement by the President which establishes that Section 6 of the law stemming from that Act is the provision which shall govern Corps management actions--not the somewhat similar provision in Section 8 of S. 1493 passed by Congress on the same date, 16 December 1981, and also signed into law by the President on 29 December 1981 (P.L. 97-128).

FOR THE COMMANDER:



E. R. HEIBERG III
Major General, USA
Director of Civil Works

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