(d) Termination of Council

Unless extended by subsequent Act of Congress, the Council shall terminate on September 30, 2010.

(Pub. L. 96–591, § 5, Dec. 24, 1980, 94 Stat. 3434; Pub. L. 97–322, title I, § 118(c), Oct. 15, 1982, 96 Stat. 1586; Pub. L. 98–557, § 16(b)(2), Oct. 30, 1984, 98 Stat. 2866; Pub. L. 101–225, title I, § 105(a)(1), Dec. 12, 1989, 103 Stat. 1909; Pub. L. 104–324, title III, § 304(a), (g), Oct. 19, 1996, 110 Stat. 3917, 3918; Pub. L. 107–295, title III, § 334, Nov. 25, 2002, 116 Stat. 2105; Pub. L. 108–293, title IV, § 418(e), Aug. 9, 2004, 118 Stat. 1049.)

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–293 substituted ''September 30, 2010'' for ''September 30, 2005''.

2002—Subsec. (d). Pub. L. 107–295 substituted ''September 30, 2005'' for ''September 30, 2000''.

1996—Pub. L. 104–324, § 304(g), which directed the general amendment of the ''section heading for section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073)'', was executed by inserting section catchline, to reflect the probable intent of Congress.

Par. (d). Pub. L. 104–324, § 304(a), substituted ''September 30, 2000'' for ''September 30, 1995''.

1989—Par. (a). Pub. L. 101–225, § 105(a)(1)(A), substituted ''Navigation Safety Advisory Council'' for ''Rules of the Road Advisory Council''.

Par. (b). Pub. L. 101–225, § 105(a)(1)(B), amended par. (b) generally. Prior to amendment, par. (b) read as follows: ''The Council shall advise, consult with, and make recommendations to the Secretary on matters relating to any major proposals for changes to the Inland Rules. The Council may recommend changes to the Inland Rules and International Regulations to the Secretary. Any advice or recommendation made by the Council to the Secretary shall reflect the independent judgment of the Council on the matter concerned. The Council shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All proceedings of the Council shall be public, and a record of the proceedings shall be made available for public inspection. The Council is authorized to make available to Congress any information, advice, and recommendations which the Council is authorized to give to the Secretary.''

Par. (d). Pub. L. 101–225, § 105(a)(1)(C), substituted ''September 30, 1995'' for ''September 30, 1990''.

1984—Par. (c). Pub. L. 98–557, § 16(b)(2)(A), struck out provisions authorizing members who are not officers or employees of the United States to receive compensation at a rate not exceeding the daily equivalent of the current rate of basic pay for GS–18 of the General Schedule under section 5332 of title 5.

Par. (d). Pub. L. 98–557, § 16(b)(2)(B), substituted ''on September 30, 1990'' for ''5 years from the date of enactment of this Act''.

1982—Par. (a). Pub. L. 97–322, § 118(c)(1), directed Secretary, not less often than once a year, to publish notice in Federal Register for solicitation of nominations for membership on Council.

Par. (b). Pub. L. 97–322, § 118(c)(2), authorized Council to make available to Congress any information, advice, and recommendations which Council is authorized to give to Secretary.

Par. (c). Pub. L. 97–322, § 118(c)(3), struck out ''or while otherwise engaged in the business of the Council'' after ''meetings of the Council'', and '', including traveltime'' after ''section 5332 of title 5''.

REFERENCES IN OTHER LAWS

Section 105(a)(2) of Pub. L. 101–225 provided that: ''Each reference to the Rules of the Road Advisory Council in a law, regulation, order, document, record, or paper of the United States is deemed to be a reference to the Navigation Safety Advisory Council.''

CHAPTER 35—ARTIFICIAL REEFS

Sec.
2101. Congressional statement of findings and purpose.
2102. Establishment of standards.
2103. National artificial reef plan.
2104. Permits for construction and management of artificial reefs.
2105. Definitions.
2106. Savings clauses.

§ 2101. Congressional statement of findings and purpose

(a) The Congress finds that—

(1) although fishery products provide an important source of protein and industrial products for United States consumption, United States fishery production annually falls far short of satisfying United States demand;

(2) overfishing and the degradation of vital fishery resource habitats have caused a reduction in the abundance and diversity of United States fishery resources;

(3) escalated energy costs have had a negative effect on the economics of United States commercial and recreational fisheries;

(4) commercial and recreational fisheries are a prominent factor in United States coastal economies and the direct and indirect returns to the United States economy from commercial and recreational fishing expenditures are threefold; and

(5) properly designed, constructed, and located artificial reefs in waters covered under this chapter can enhance the habitat and diversity of fishery resources; enhance United States recreational and commercial fishing opportunities; increase the production of fishery products in the United States; increase the energy efficiency of recreational and commercial fisheries; and contribute to the United States and coastal economies.

(b) The purpose of this chapter is to promote and facilitate responsible and effective efforts to establish artificial reefs in waters covered under this chapter.

(Pub. L. 98–623, title II, § 202, Nov. 8, 1984, 98 Stat. 3394.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title II of Pub. L. 98–623, which in addition to enacting this chapter also enacted section 1220d of Title 16, Conservation, and amended sections 1220, 1220a, 1220b, and 1220c of Title 16.

SHORT TITLE

Section 201 of title II of Pub. L. 98–623 provided that: ''This title [enacting this chapter and section 1220d of Title 16, Conservation, and amending sections 1220 to 1220c of Title 16] may be cited as the 'National Fishing Enhancement Act of 1984'.''

§ 2102. Establishment of standards

Based on the best scientific information available, artificial reefs in waters covered under this chapter shall be sited and constructed, and subsequently monitored and managed in a manner which will—

(1) enhance fishery resources to the maximum extent practicable;

(2) facilitate access and utilization by United States recreational and commercial fishermen;

(3) minimize conflicts among competing uses of waters covered under this chapter and the resources in such waters;

(4) minimize environmental risks and risks to personal health and property; and

(5) be consistent with generally accepted principles of international law and shall not create any unreasonable obstruction to navigation.

(Pub. L. 98–623, title II, § 203, Nov. 8, 1984, 98 Stat. 3395.)

§ 2103. National artificial reef plan

Not later than one year after November 8, 1984, the Secretary of Commerce, in consultation with the Secretary of the Interior, the Secretary of Defense, the Administrator of the Environmental Protection Agency, the Secretary of the Department in which the Coast Guard is operating, the Regional Fishery Managment[1] Councils, interested States, Interstate Fishery Commissions, and representatives of the private sector, shall develop and publish a long-term plan which will meet the purpose of this chapter and be consistent with the standards established under section 2102 of this chapter. The plan must include—

(1) geographic, hydrographic, geologic, biological, ecological, social, economic, and other criteria for siting artificial reefs;

(2) design, material, and other criteria for constructing artificial reefs;

(3) mechanisms and methodologies for monitoring the compliance of artificial reefs with the requirements of permits issued under section 2104 of this title;

(4) mechanisms and methodologies for managing the use of artificial reefs;

(5) a synopsis of existing information on artificial reefs and needs for further research on artificial reef technology and management strategies; and

(6) an evaluation of alternatives for facilitating the transfer of artificial reef construction materials to persons holding permits issued pursuant to section 2104 of this title, including, but not limited to, credits for environmental mitigation and modified tax obligations.

(Pub. L. 98–623, title II, § 204, Nov. 8, 1984, 98 Stat. 3395.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

[1] So in original. Probably should be ''Management''.

§ 2104. Permits for construction and management of artificial reefs

(a) Secretarial action on permits

In issuing a permit for artificial reefs under section 403 of this title, section 1344 of this title, or section 1333(e) of title 43, the Secretary of the Army (hereinafter in this section referred to as the ''Secretary'') shall—

(1) consult with and consider the views of appropriate Federal agencies, States, local governments, and other interested parties;

(2) ensure that the provisions for siting, constructing, monitoring, and managing the artificial reef are consistent with the criteria and standards established under this chapter;

(3) ensure that the title to the artificial reef construction material is unambiguous, and that responsibility for maintenance and the financial ability to assume liability for future damages are clearly established; and

(4) consider the plan developed under section 2103 of this title and notify the Secretary of Commerce of any need to deviate from that plan.

(b) Terms and conditions of permits

(1) Each permit issued by the Secretary subject to this section shall specify the design and location for construction of the artificial reef and the types and quantities of materials that may be used in constructing such artificial reef. In addition, each such permit shall specify such terms and conditions for the construction, operation, maintenance, monitoring, and managing the use of the artificial reef as are necessary for compliance with all applicable provisions of law and as are necessary to ensure the protection of the environment and human safety and property.

(2) Before issuing a permit under section 1342 of this title for any activity relating to the siting, design, construction, operation, maintenance, monitoring, or managing of an artificial reef, the Administrator of the Environmental Protection Agency shall consult with the Secretary to ensure that such permit is consistent with any permit issued by the Secretary subject to this section.

(c) Liability of permittee

(1) A person to whom a permit is issued in accordance with subsection (a) of this section and any insurer of that person shall not be liable for damages caused by activities required to be undertaken under any terms and conditions of the permit, if the permittee is in compliance with such terms and conditions.

(2) A person to whom a permit is issued in accordance with subsection (a) of this section and any insurer of that person shall be liable, to the extent determined under applicable law, for damages to which paragraph (1) does not apply.

(3) The Secretary may not issue a permit subject to this section to a person unless that person demonstrates to the Secretary the financial ability to assume liability for all damages that may arise with respect to an artificial reef and for which such permittee may be liable.

(4) Any person who has transferred title to artificial reef construction materials to a person to whom a permit is issued in accordance with

subsection (a) of this section shall not be liable for damages arising from the use of such materials in an artificial reef, if such materials meet applicable requirements of the plan published under section 2103 of this title and are not otherwise defective at the time title is transferred.

(d) Liability of the United States

Nothing in this chapter creates any liability on the part of the United States.

(e) Civil penalty

Any person who, after notice and an opportunity for a hearing, is found to have violated any provision of a permit issued in accordance with subsection (a) of this section shall be liable to the United States for a civil penalty, not to exceed $10,000 for each violation. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation. The Secretary may compromise, modify, or remit with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection.

(Pub. L. 98–623, title II, § 205, Nov. 8, 1984, 98 Stat. 3396.)

§ 2105. Definitions

For purposes of this chapter—

(1) The term ''artificial reef'' means a structure which is constructed or placed in waters covered under this chapter for the purpose of enhancing fishery resources and commercial and recreational fishing opportunities.

(2) The term ''State'' means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, American Samoa, Guam, Johnston Island, Midway Island, and Wake Island.

(3) The term ''waters covered under this chapter'' means the navigable waters of the United States and the waters superjacent to the Outer Continental Shelf as defined in section 1331 of title 43, to the extent such waters exist in or are adjacent to any State.

(Pub. L. 98–623, title II, § 206, Nov. 8, 1984, 98 Stat. 3397.)

§ 2106. Savings clauses

(a) Tennessee Valley Authority jurisdiction

Nothing in this chapter shall be construed as replacing or superseding section 831y–1 of title 16.

(b) State jurisdiction

Nothing in this chapter shall be construed as extending or diminishing the jurisdiction or authority of any State over the siting, construction, monitoring, or managing of artificial reefs within its boundaries.

(Pub. L. 98–623, title II, § 208, Nov. 8, 1984, 98 Stat. 3398.)

CHAPTER 36—WATER RESOURCES DEVELOPMENT

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