

## CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

**§ 4403. Establishment of North American Wetlands Conservation Council**

**(a) Council membership**

(1) There shall be established a North American Wetlands Conservation Council (hereinafter in this chapter referred to as the “Council”) which shall consist of nine members who may not receive compensation as members of the Council. Of the Council members—

(A) one shall be the Director of the United States Fish and Wildlife Service, who shall be the responsible Federal official for ensuring Council compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) one shall be the Secretary of the Board of the National Fish and Wildlife Foundation appointed pursuant to section 3702(g)(2)(B) of this title;

(C) four shall be individuals who shall be appointed by the Secretary, who shall reside in different flyways and who shall each be a Director of the State fish and wildlife agency; and

(D) three shall be individuals who shall be appointed by the Secretary and who shall each represent a different charitable and nonprofit organization which is actively participating in carrying out wetlands conservation projects under this chapter, the Plan, or the Agreement.

The provisions of Public Law 92-463, as amended, shall not apply to the Council.

(2) The Secretary shall appoint an alternate member of the Council who shall be knowledgeable and experienced in matters relating to fish, wildlife, and wetlands conservation and who shall perform the duties of a Council member appointed under subsection (a)(1)(C) or subsection (a)(1)(D) of this section—

(A) until a vacancy referred to in subsection (b)(4) of this section is filled; or

(B) in the event of the anticipated absence of such a member from any meeting of the Council.

**(b) Appointment and terms**

(1) Except as provided in paragraphs (2) and (3), the term of office of a member of the Council appointed under subsections (a)(1)(C) and (a)(1)(D) of this section is three years.

(2) Of the Council members first appointed under subsection (a)(1)(C) of this section after December 13, 1989, one shall be appointed for a term of one year, one shall be appointed for a term of two years, and two shall be appointed for a term of three years.

(3) Of the Council members first appointed under subsection (a)(1)(D) of this section after December 13, 1989, one shall be appointed for a term of one year, one shall be appointed for a term of two years, and one shall be appointed for a term of three years.

(4) Whenever a vacancy occurs among members of the Council appointed under subsection

(a)(1)(C) or subsection (a)(1)(D) of this section, the Secretary shall appoint an individual in accordance with either such subsection to fill that vacancy for the remainder of the applicable term.

**(c) Ex officio Council members**

The Secretary is authorized and encouraged to include as ex officio nonvoting members of the Council representatives of—

(1) the Federal, provincial, territorial, or State government agencies of Canada and Mexico, which are participating actively in carrying out one or more wetlands conservation projects under this chapter, the Plan, or the Agreement;

(2) the Environmental Protection Agency and other appropriate Federal agencies, in addition to the United States Fish and Wildlife Service, which are participating actively in carrying out one or more wetlands conservation projects under this chapter, the Plan, or the Agreement; and

(3) nonprofit charitable organizations and Native American interests, including tribal organizations, which are participating actively in one or more wetlands conservation projects under this chapter, the Plan, or the Agreement.

**(d) Chairman**

The Chairman shall be elected by the Council from its members for a three-year term, except that the first elected Chairman may serve a term of less than three years.

**(e) Quorum**

A majority of the current membership of the Council shall constitute a quorum for the transaction of business.

**(f) Meetings**

The Council shall meet at the call of the Chairman at least once a year. Council meetings shall be open to the public, and the Chairman shall take appropriate steps to provide adequate notice to the public of the time and place of such meetings. If a Council member appointed under subsection (a)(1)(C) or (a)(1)(D) of this section misses three consecutive regularly scheduled meetings, the Secretary may remove that individual in accordance with subsection (b)(4) of this section.

**(g) Coordinator**

The Director of the United States Fish and Wildlife Service shall appoint an individual who shall serve at the pleasure of the Director and—

(1) who shall be educated and experienced in the principles of fish, wildlife, and wetlands conservation;

(2) who shall be responsible, with assistance from the United States Fish and Wildlife Service, for facilitating consideration of wetlands conservation projects by the Council and otherwise assisting the Council in carrying out its responsibilities under this chapter; and

(3) who shall be compensated with the funds available under section 4407(a)(1) of this title for administering this chapter.

(Pub. L. 101-233, § 4, Dec. 13, 1989, 103 Stat. 1970; Pub. L. 101-593, title I, § 112(1)-(3), Nov. 16, 1990,

104 Stat. 2962; Pub. L. 107-308, §8(a)(6), (7), (b)(1), Dec. 2, 2002, 116 Stat. 2447, 2448.)

#### REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a)(1)(A), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Public Law 92-463, referred to in subsec. (a)(1), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, known as the Federal Advisory Committee Act, which is set out in the Appendix to Title 5, Government Organization and Employees.

#### AMENDMENTS

2002—Subsec. (a)(1)(A). Pub. L. 107-308, §8(b)(1), amended directory language of Pub. L. 101-593, §112(1). See 1990 Amendment note below.

Subsec. (a)(1)(B). Pub. L. 107-308, §8(a)(6), substituted “section 3702(g)(2)(B)” for “section 3702(2)(B)”.

Subsec. (c). Pub. L. 107-308, §8(a)(7), substituted “Council” for “Commission” in introductory provisions.

1990—Subsec. (a)(1). Pub. L. 101-593, §112(2), inserted sentence at end relating to Public Law 92-463.

Subsec. (a)(1)(A). Pub. L. 101-593, §112(1), as amended by Pub. L. 107-308, §8(b)(1), inserted “, who shall be the responsible Federal official for ensuring Council compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)” after “Service”.

Subsec. (f). Pub. L. 101-593, §112(3), inserted before period at end of first sentence “, and the Chairman shall take appropriate steps to provide adequate notice to the public of the time and place of such meetings”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-308, §8(b)(2), Dec. 2, 2002, 116 Stat. 2448, provided that: “Paragraph (1) of this subsection [amending this section] shall be effective on and after the effective date of section 112(1) of Public Law 101-593 (104 Stat. 2962) [Nov. 16, 1990].”

#### MEMBERSHIP OF NORTH AMERICAN WETLANDS CONSERVATION COUNCIL

Pub. L. 105-312, title III, §304, Oct. 30, 1998, 112 Stat. 2958, provided that:

“(a) IN GENERAL.—Notwithstanding section 4(a)(1)(D) of the North American Wetlands Conservation Act (16 U.S.C. 4403(a)(1)(D)), during the period of 1999 through 2002, the membership of the North American Wetlands Conservation Council under section 4(a)(1)(D) of that Act shall consist of—

“(1) 1 individual who shall be the Group Manager for Conservation Programs of Ducks Unlimited, Inc. and who shall serve for 1 term of 3 years beginning in 1999; and

“(2) 2 individuals who shall be appointed by the Secretary of the Interior in accordance with section 4 of that Act and who shall each represent a different organization described in section 4(a)(1)(D) of that Act.

“(b) PUBLICATION OF POLICY.—Not later than June 30, 1999, the Secretary of the Interior shall publish in the Federal Register, after notice and opportunity for public comment, a policy for making appointments under section 4(a)(1)(D) of the North American Wetlands Conservation Act (16 U.S.C. 4403(a)(1)(D)).”

#### § 4404. Approval of wetlands conservation projects

##### (a) Consideration by Council

The Council shall recommend wetlands conservation projects to the Migratory Bird Conservation Commission based on consideration of—

(1) the extent to which the wetlands conservation project fulfills the purposes of this chapter, the Plan, or the Agreement;

(2) the availability of sufficient non-Federal moneys to carry out any wetlands conservation project and to match Federal contributions in accordance with the requirements of section 4407(b) of this title;

(3) the extent to which any wetlands conservation project represents a partnership among public agencies and private entities;

(4) the consistency of any wetlands conservation project in the United States with the National Wetlands Priority Conservation Plan developed under section 3921 of this title;

(5) the extent to which any wetlands conservation project would aid the conservation of migratory nongame birds, other fish and wildlife and species that are listed, or are candidates to be listed, as threatened and endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(6) the substantiality of the character and design of the wetlands conservation project; and

(7) the recommendations of any partnerships among public agencies and private entities in Canada, Mexico, or the United States which are participating actively in carrying out one or more wetlands conservation projects under this chapter, the Plan, or the Agreement.

##### (b) Recommendations to Migratory Bird Conservation Commission

The Council shall submit to the Migratory Bird Conservation Commission each year a description, including estimated costs, of the wetlands conservation projects which the Council has considered under subsection (a) of this section and which it recommends, in order of priority, that the Migratory Bird Conservation Commission approve for Federal funding under this chapter and section 669b(b) of this title. Solely for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), recommendations by the Council for carrying out wetlands conservation projects under section 4405(a) of this title shall be considered Federal actions requiring the preparation of environmental assessments or, where appropriate, environmental impact statements.

##### (c) Council procedures

The Council shall establish practices and procedures for the carrying out of its functions under subsections (a) and (b) of this section. The procedures shall include requirements that—

(1) a quorum of the Council must be present before any business may be transacted; and

(2) no recommendations referred to in subsection (b) of this section may be adopted by the Council except by the vote of two-thirds of all members present and voting.

##### (d) Council representation on Migratory Bird Conservation Commission

The Chairman of the Council shall select 2 Council members of the<sup>1</sup> United States citizenship to serve with the Chairman as ex officio members of the Migratory Bird Conservation

<sup>1</sup> So in original.