

## AMENDMENTS

1988—Subsec. (d)(1)(E). Pub. L. 100-350 which directed the substitution of “, at least one of whom is not a resident of the States of the Alaska, Pacific, Southeast, and Northeast regions” for “and who are not residents of the States of the Alaska, Pacific, Southeast, or Northeast regions” was executed by substituting that phrase for “and who are not residents of the states of the Alaska, Pacific, Southeast, or Northeast regions”.

## CONTINUITY OF NATIONAL COUNCIL MEMBERSHIP

Pub. L. 101-627, title VII, §704(a), (b), Nov. 28, 1990, 104 Stat. 4464, provided that:

“(a) UNINTERRUPTED SERVICE.—Individuals serving on September 30, 1990, as members of the National Fish and Seafood Promotional Council shall be deemed to continue as members in uninterrupted service since the date of their initial appointment.

“(b) FILLING OF VACANCIES.—Notwithstanding section 206(e) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(e)), any vacancy on the National Fish and Seafood Promotion Act [Promotional Council] not filled as of September 30, 1990, shall be filled within 60 days after the date of enactment of this Act [Nov. 28, 1990].”

**§ 4005. Functions and duties of National Council****(a) Functions and duties**

The National Council shall—

(1) prepare and submit to the Secretary, for the Secretary’s review and approval, an annual marketing and promotion plan which contains descriptions of consumer education, research, and other marketing and promotion activities of the National Council for the following year, including plans to coordinate the activities of councils established under section 4009 of this title;

(2) prepare and submit to the Secretary, for the Secretary’s review and approval, an annual budget of the anticipated expenses and disbursements of the National Council, including probable costs of consumer education, research, and other marketing and promotion plans or projects, and referenda under section 4009 of this title;

(3) maintain accounting records of the receipt and disbursement of all funds entrusted to the National Council, subject to the Secretary’s right to review or inspect such records;

(4) maintain such books and records as the Secretary determines appropriate; and

(5) prepare and submit to the Secretary from time to time such reports or proposals as the Secretary or the National Council determines appropriate for furthering the purposes and policies of this chapter.

**(b) Annual plan**

Each annual marketing and promotion plan shall be directed to—

(1) increasing the general demand for fish and fish products;

(2) encouraging, expanding, or improving the marketing and promotion and utilization of fish and fish products; and

(3) improving the dissemination of data collected by consumer education, research, and other marketing promotion activities.

**(c) Prohibition on certain references**

Consumer education and other marketing and promotion activities of the National Council

shall contain no reference to a private brand or trade name and shall avoid use of deceptive acts or practices in behalf of fish or fish products or with respect to the quality, value, or use of any competing product or group of products. In addition, the National Council may not promote the consumption or purchase of a single or group of similar fish species (such as members of the same genera); except that the Council may use illustrations of a single or group of similar fish species in the course of promoting the generic consumption of fish and fish products.

**(d) Executive director**

The National Council may employ and determine the salary of an executive director, but such salary shall not exceed Senior Executive Service Level 6. The executive director shall have demonstrated expertise in the marketing and promotion of food products and may, without regard to the provisions of title 5, with the approval of the National Council, select and employ additional staff as necessary.

**(e) Funding of referendum**

The National Council may enter into agreements with applicants proposing to establish a council under section 4009 of this title for the purposes of funding a referendum establishing the council. The National Council may enter into agreements with the councils established under section 4009 of this title for the purpose of funding a referendum to establish quality standards, or a referendum to terminate any such council.

**(f) Agreements**

The National Council may enter into agreements to develop and carry out activities authorized under this chapter.

**(g) Termination of National Council**

The National Council shall cease to exist on December 31, 1991.

(Pub. L. 99-659, title II, §206, Nov. 14, 1986, 100 Stat. 3718; Pub. L. 101-627, title VII, §701, Nov. 28, 1990, 104 Stat. 4463.)

## REFERENCES IN TEXT

Senior Executive Service, referred to in subsec. (d), see section 5382 of Title 5, Government Organization and Employees.

## AMENDMENTS

1990—Subsec. (g). Pub. L. 101-627 substituted “December 31, 1991” for “October 1, 1990”.

## CONTINUITY OF COUNCIL FUNCTIONS, CONTRACTS, AND PERSONNEL

Pub. L. 101-627, title VII, §705, Nov. 28, 1990, 104 Stat. 4464, provided that: “All current functions, contracts in force, and existing personnel of the National Fish and Seafood Promotional Council as of September 30, 1990, are reauthorized and extended, and shall continue as if uninterrupted, notwithstanding section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(g)) as in effect on September 30, 1990.”

**§ 4006. Duties of Secretary with regard to National Council****(a) Duties of Secretary**

The Secretary shall—

(1) within sixty days after its submission by the National Council, review the annual mar-

keting and promotion plan and budget and, if the Secretary determines that such plan and budget are in accordance with the purposes and policies of this chapter, approve such plan and budget;

(2) administer the Fund and, in accordance with subsection (b) of this section, withdraw from the Fund such sums as are necessary to carry out the National Council's approved marketing and promotion plan and budget;

(3) promulgate regulations necessary to carry out the purposes and policies of this chapter;

(4) provide such administrative assistance as the National Council may require for purposes of its initial organization and operation; and

(5) make all initial appointments to the National Council within ninety days after November 14, 1986.

#### (b) Withdrawal of funds

The Secretary shall make withdrawals of sums from the Fund under this section at the request of the National Council, unless the Secretary determines that the purposes for which such sums are requested are not reasonably likely to further the purposes and policies of this chapter.

(Pub. L. 99-659, title II, § 207, Nov. 14, 1986, 100 Stat. 3719; Pub. L. 101-627, title VII, § 704(c), Nov. 28, 1990, 104 Stat. 4464.)

#### AMENDMENTS

1990—Subsec. (a)(5). Pub. L. 101-627 inserted “initial” before “appointments”.

#### § 4007. Voluntary payments

Any person may make voluntary payments to assist the National Council to carry out its annual marketing and promotion plan and annual budget. The Secretary shall deposit such payments into the Fund.

(Pub. L. 99-659, title II, § 208, Nov. 14, 1986, 100 Stat. 3720.)

#### § 4008. Establishment of Fisheries Promotional Fund

##### (a) Establishment of Fund

There is established in the Treasury of the United States a Fisheries Promotional Fund. The Fund shall be available, to the extent provided for in appropriation Acts, for the purpose of making payments to carry out the annual marketing and promotion plan and annual budget of the National Council under this chapter.

##### (b) Deposits

There shall be deposited in the Fund—

(1) the moneys transferred to the Fund under section 713c-3(b)(2) of title 15;

(2) payments made voluntarily pursuant to section 4007 of this title; and

(3) receipts from investments made under subsection (c) of this section.

##### (c) Deposits and investments

Sums in the Fund that are not currently needed for the purposes of the Fund shall be kept on deposit in appropriate interest-bearing accounts that shall be established by the Secretary of the Treasury, or invested in obligations of, or guar-

anteed by, the United States. Any revenue accruing from such deposits and investments shall be deposited in the Fund.

##### (d) Authorization

There are authorized to be appropriated from the Fund, for the purposes of carrying out the annual marketing and promotion plan and annual budget of the National Council under this chapter, such sums as are deposited in the Fund under subsection (b) of this section in each fiscal year beginning in fiscal year 1987 through fiscal year 1991.

(Pub. L. 99-659, title II, § 209, Nov. 14, 1986, 100 Stat. 3720; Pub. L. 101-627, title VII, § 702, Nov. 28, 1990, 104 Stat. 4463.)

#### CODIFICATION

Section is comprised of section 209 of Pub. L. 99-659. Subsec. (e) of section 209 of Pub. L. 99-659 amended section 713c-3 of Title 15, Commerce and Trade.

#### AMENDMENTS

1990—Subsec. (d). Pub. L. 101-627 substituted “1991” for “1990”.

#### § 4009. Establishment of seafood marketing councils

##### (a) Application

An application for a charter for a seafood marketing council for one or more species of fish and fish products of that species may be filed by persons who meet the requirements specified in accordance with subsection (b)(6) of this section.

##### (b) Form of application

An application for a charter for a council shall be made by filing with the Secretary the text of a proposed charter in such form as shall be prescribed by regulation by the Secretary. The text of a proposed charter must contain such information as the Secretary considers necessary or appropriate for carrying out the provisions of this chapter, including—

(1) the name of the council and a provision proclaiming its establishment;

(2) a declaration of the purposes and objectives of the council;

(3) a description of the species of fish and fish products for which the council will implement marketing and promotion plans under section 4010 of this title;

(4) the identification of each sector and the number and terms of representatives of each sector that will be represented as voting members of the council;

(5) the identification of those sectors (including the sector consisting of harvesters, the sector consisting of receivers, and, if subject to assessment, the sector consisting of importers) subject to a referendum to establish a council under subsection (e) of this section;

(6) a specification for each sector described under paragraph (5) of this subsection of the minimum requirements, as measured by income, volume, or other relevant factors, that a person engaging in business in the sector must meet in order to participate in a referendum;

(7)(A) a description of the procedures for determining assessment rates under section 4012 of this title;