

referred to in subsection (a) of this section is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (b) of this section, or if work in connection with any activity permitting<sup>1</sup> in subsection (b) of this section is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

(Pub. L. 101-640, title IV, § 408, Nov. 28, 1990, 104 Stat. 4647.)

#### REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b), 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.

#### CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

#### “SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 101-640, set out as a note under section 2201 of this title.

### § 59bb-1. Declaration of nonnavigability for Lake Erie, New York

#### (a) Area to be declared nonnavigable; public interest

Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portion of Erie County, New York, described in subsection (b) of this section, are not in the public interest then, subject to subsection (c) of this section, those portions of such county that were once part of Lake Erie and are now filled are declared to be nonnavigable waters of the United States.

#### (b) Boundaries

The portion of Erie County, New York, referred to in subsection (a) of this section is all that tract or parcel of land, situated in the town of Hamburg and the city of Lackawanna, Erie County, New York, being part of Lots 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, and 25 of the Ogden Gore Tract and part of Lots 23, 24, and 36 of the Buffalo Creek Reservation, Township 10, Range 8 of the Holland Land Company's Survey and more particularly bounded and described as follows:

[Omitted.]

#### (c) Limits on applicability; regulatory requirements

The declaration under subsection (a) of this section shall apply to those parts of the areas described in subsection (b) of this section that

are filled portions of Lake Erie. Any work on these filled portions shall be subject to all applicable Federal statutes and regulations, including sections 401 and 403 of this title, section 1344 of this title, and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

#### (d) Expiration date

If, 20 years from December 11, 2000, any area or part thereof described in subsection (a) of this section is not occupied by permanent structures in accordance with the requirements set out in subsection (c) of this section, or if work in connection with any activity permitted in subsection (c) of this section is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

(Pub. L. 106-541, title III, § 346, Dec. 11, 2000, 114 Stat. 2614.)

#### REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (c), 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.

#### CODIFICATION

The provisions of subsec. (b) of this section, which contain the text of the boundary descriptions, have been omitted. Such provisions appear at 114 Stat. 2614 to 2618.

#### “SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 106-541, set out as a note under section 2201 of this title.

### § 59cc. Declaration of nonnavigability of portion of Hudson River, New York

#### (a) Declaration of nonnavigability

Subject to subsections (c), (d), and (e) of this section, the area described in subsection (b) of this section is declared to be nonnavigable waters of the United States.

#### (b) Area subject to declaration

The area described in this subsection is the portion of the Hudson River, New York, described as follows (according to coordinates and bearings in the system used on the Borough Survey, Borough President's Office, New York, New York):

Beginning at a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, having a coordinate of north 1918.003 west 9806.753;

Running thence easterly, on the arc of a circle curving to the left, whose radial line bears north 3°-44'-20" east, having a radius of 390.00 feet and a central angle of 22°-05'-50", 150.41 feet to a point of tangency;

Thence north 71°-38'-30" east, 42.70 feet;

Thence south 11°-05'-40" east, 33.46 feet;

Thence south 78°-54'-20" west, 0.50 feet;

Thence south 11°-05'-40" east, 2.50 feet;

Thence north 78°-54'-20" east, 0.50 feet;

Thence south 11°-05'-40" east, 42.40 feet to a point of curvature;

<sup>1</sup> So in original. Probably should be "permitted".