

113TH CONGRESS
1ST SESSION

S. 1079

To require the Director of the Bureau of Safety and Environmental Enforcement to promote the artificial reefs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 23, 2013

Mr. VITTER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require the Director of the Bureau of Safety and Environmental Enforcement to promote the artificial reefs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Artificial Reef Pro-
5 motion Act of 2013”.

6 **SEC. 2. PERMITS FOR CONSTRUCTION AND MANAGEMENT**
7 **OF ARTIFICIAL REEFS.**

8 Section 205 of the National Fishing Enhancement
9 Act of 1984 (33 U.S.C. 2104) is amended—

1 (1) by redesignating subsections (b) through (e)
2 as subsections (d) through (g), respectively; and

3 (2) by striking subsection (a) and inserting the
4 following:

5 “(a) ACTION ON PERMITS.—

6 “(1) IN GENERAL.—In issuing a permit for an
7 artificial reef under section 10 of the Act entitled
8 ‘An Act making appropriations for the construction,
9 repair, and preservation of certain public works on
10 rivers and harbors, and for other purposes’, ap-
11 proved March 3, 1899 (commonly known as the
12 ‘Rivers and Harbors Appropriation Act of 1899’)
13 (33 U.S.C. 403), section 404 of the Federal Water
14 Pollution Control Act (33 U.S.C. 1344), or section
15 4(e) of the Outer Continental Shelf Lands Act (43
16 U.S.C. 1333(e)), the Secretary shall—

17 “(A) consult with and consider the views of
18 appropriate Federal agencies, States, local gov-
19 ernments, and other interested parties;

20 “(B) ensure that the provisions for siting,
21 constructing, monitoring, and managing the ar-
22 tificial reef are consistent with the criteria and
23 standards established under this Act;

24 “(C) ensure that the title to the artificial
25 reef construction material is unambiguous, and

1 that responsibility for maintenance and the fi-
2 nancial ability to assume liability for future
3 damages are clearly established;

4 “(D) ensure that a State assuming liability
5 under subparagraph (C) has established an ar-
6 tificial reef maintenance fund; and

7 “(E) consider the plan developed under
8 section 204 and notify the Secretary of Com-
9 merce of any need to deviate from that plan.

10 “(2) REGULATIONS.—

11 “(A) IN GENERAL.—Not later than 180
12 days after the date of enactment of this para-
13 graph, the Directors shall promulgate regula-
14 tions that expedite the review of a final applica-
15 tion such that a decision is rendered not later
16 than 150 days after the date on which the ap-
17 plication is submitted.

18 “(B) REGULATIONS PROMULGATED BY
19 THE COMMANDING GENERAL.—Not later than
20 180 days after the date of enactment of the Ar-
21 tificial Reef Promotion Act of 2013, the Com-
22 manding General shall promulgate regulations
23 that expedite the review of a final application
24 by the Secretary such that a decision is ren-

1 dered not later than 120 days after the date on
2 which the application is submitted.

3 “(b) SITING.—

4 “(1) NUMBER.—

5 “(A) IN GENERAL.—Not later than 1 year
6 after the date of enactment of the Artificial
7 Reef Promotion Act of 2013, the Commanding
8 General shall, in consultation with the Directors
9 and appropriate State agencies, designate not
10 fewer than 20 artificial reef planning areas.

11 “(B) GULF STATES.—Of the artificial reef
12 planning areas described in subparagraph (A)—

13 “(i) 6 shall be located outside the sea-
14 ward boundary of the State of Texas;

15 “(ii) 6 shall be located outside the
16 seaward boundary of the State of Lou-
17 isiana;

18 “(iii) 3 shall be located outside the
19 seaward boundaries of the State of Ala-
20 bama and State of Mississippi; and

21 “(iv) 5 shall be located outside the
22 seaward boundary of the State of Florida.

23 “(C) INCLUSIONS.—The sites described in
24 subparagraph (A) include any artificial reef
25 planning area existing on the day before the

1 date of enactment of the Artificial Reef Pro-
 2 motion Act of 2013 if the boundaries and area
 3 of the site are modified to meet the require-
 4 ments of this Act.

5 “(2) BOUNDARIES AND PROXIMITY TO SHORE-
 6 LINE.—

7 “(A) IN GENERAL.—The Directors shall,
 8 in consultation with the Commanding General
 9 and appropriate State agencies—

10 “(i) ensure that each artificial reef
 11 planning area described in paragraph
 12 (1)(A)—

13 “(I) is sited a reasonable prox-
 14 imity to the shoreline, as determined
 15 by the Directors; and

16 “(II) includes as many platforms
 17 as practical, as determined by the Di-
 18 rectors; and

19 “(ii) determine the appropriate size
 20 and boundaries for each site.

21 “(B) MINIMUM AREA.—

22 “(i) IN GENERAL.—Each artificial
 23 reef planning area described in paragraph
 24 (1)(A) shall be not smaller than 12 contig-
 25 uous lease blocks.

1 “(ii) APPLICATION.—Clause (i) shall
 2 apply to any artificial reef planning area
 3 existing before, on, or after the date of en-
 4 actment of the Artificial Reef Promotion
 5 Act of 2013.

6 “(3) DISTANCE BETWEEN SITES.—

7 “(A) IN GENERAL.—Not later than 180
 8 days after the date of enactment of the Artifi-
 9 cial Reef Promotion Act of 2013, the Director
 10 of the Bureau of Safety and Environmental En-
 11 forcement shall promulgate a regulation that
 12 regulates the distance between platforms used
 13 as artificial reefs.

14 “(B) MAXIMUM.—The distance contained
 15 in the regulation described in subparagraph (A)
 16 shall be not greater than 2 miles.

17 “(4) DEPTH.—

18 “(A) IN GENERAL.—Of the artificial reef
 19 planning areas described in paragraph (1)(A)—

20 “(i) not fewer than 10 shall be located
 21 at a water depth of—

22 “(I) not less than 100 feet; and

23 “(II) not greater than 200 feet;

24 and

1 “(ii) not fewer than 10 shall be lo-
 2 cated at a water depth of greater than 200
 3 feet.

4 “(B) SITES IN WATER DEPTH OF NOT
 5 GREATER THAN 100 FEET.—The Commanding
 6 General shall, in consultation with the Directors
 7 and appropriate State agencies, designate artifi-
 8 cial reef planning areas, where practicable, at a
 9 water depth of not greater than 100 feet.

10 “(5) REQUIREMENTS FOR PERMITTEES.—

11 “(A) IN GENERAL.—A person to whom a
 12 permit is issued under subsection (a)(1) shall—

13 “(i) construct the artificial reef in an
 14 artificial reef site located in an artificial
 15 reef planning area described in paragraph
 16 (1)(A);

17 “(ii) comply with—

18 “(I) any regulation promulgated
 19 by the Director of the Bureau of Safe-
 20 ty and Environmental Enforcement
 21 relating to reef planning;

22 “(II) the plan developed under
 23 section 204; and

24 “(III) any applicable plan devel-
 25 oped by a State; and

“(iii) if the person owns platforms, not later than 180 days after the date on which the Commanding General designates the artificial reef planning areas under paragraph (1), submit to the Director of the Bureau of Safety and Environmental Enforcement and appropriate State agencies notice that identifies 20 percent of the platforms to be used as artificial reefs.

“(B) DONATED PLATFORMS.—

“(i) IN GENERAL.—A person described in subparagraph (A)(iii) shall include in a final application the artificial reef planning area and the artificial reef site in which the platforms described in subparagraph (A)(iii) will be located.

“(ii) DEPTH.—The area and site described in clause (i) shall be consistent with the depth requirements in paragraph (4).

“(iii) AREA OR SITE FILLED TO CAPACITY.—If the Director of the Bureau of Safety and Environmental Enforcement or appropriate State agency determines that the area or site chosen by the person under

1 clause (i) is filled to capacity, the person
2 shall choose a different area or site.

3 “(6) REGULATIONS.—

4 “(A) CAPACITY OF REEF SITES.—No regu-
5 lation shall require that an artificial reef plan-
6 ning area described in paragraph (1)(A) be
7 filled to capacity with platforms before another
8 artificial reef planning area is established.

9 “(B) MINIMUM WATER DEPTH.—

10 “(i) IN GENERAL.—The Secretary
11 shall, in consultation with the Secretary of
12 the department in which the Coast Guard
13 is operating, promulgate regulations for
14 the minimum water depth required to
15 cover an artificial reef.

16 “(ii) DEPTH NOT GREATER THAN 85
17 FEET.—If the minimum water depth de-
18 scribed in clause (i) is not greater than 85
19 feet, the Secretary of the department in
20 which the Coast Guard is operating shall—

21 “(I) evaluate each artificial reef
22 site to ensure that the site is properly
23 marked to reduce any navigational
24 hazard;

1 “(II) not later than 30 days on
2 which a final application is submitted,
3 review the application to ensure that
4 the artificial reef site will contain the
5 markings described in subclause (I);

6 “(III) indicate on appropriate
7 nautical charts the location of each
8 artificial reef planning area and artifi-
9 cial reef site; and

10 “(IV) provide mariners with no-
11 tice of the location of each artificial
12 reef site in a manner that the Sec-
13 retary of the department in which the
14 Coast Guard is operating determines
15 is appropriate.

16 “(7) REVIEW.—Not later than 3 years after the
17 date of enactment of the Artificial Reef Promotion
18 Act of 2013, the Director of the Bureau of Safety
19 and Environmental Enforcement, shall review the
20 artificial reef planning areas described in paragraph
21 (1)(A) to determine the effectiveness of using de-
22 commissioned platforms as artificial reefs.

23 “(c) PREFERENCE GIVEN TO APPLICATIONS SEEK-
24 ING TO USE DECOMMISSIONED PLATFORMS AS ARTIFI-

1 CIAL REEFS.—The Regional Supervisor shall give pref-
 2 erence to a final application.

3 “(d) REGULATIONS GOVERNING DECOMMISSIONED
 4 PLATFORMS.—Any regulation in effect on the date of en-
 5 actment of the Artificial Reef Promotion Act of 2013 that
 6 governs the decommissioning or removal of a platform
 7 that is not being decommissioned for use as an artificial
 8 reef shall continue to govern the decommissioning or re-
 9 moval of the platform.”.

10 **SEC. 3. DEFINITIONS.**

11 Section 206 of the National Fishing Enhancement
 12 Act of 1984 (33 U.S.C. 2105) is amended—

13 (1) by redesignating paragraphs (2) and (3) as
 14 paragraphs (11) and (12), respectively; and

15 (2) by inserting after paragraph (1) the fol-
 16 lowing:

17 “(2) ARTIFICIAL REEF.—The term ‘artificial
 18 reef’ means a structure that is constructed or placed
 19 in the Gulf of Mexico for the purpose of enhancing
 20 fishery resources and commercial and recreational
 21 fishing opportunities.

22 “(3) ARTIFICIAL REEF PLANNING AREA.—The
 23 term ‘artificial reef planning area’ means a des-
 24 ignated area within which artificial reef sites may be
 25 located when—

1 “(A) a person obtains all appropriate per-
2 mits; and

3 “(B) each platform located in the artificial
4 reef site is appropriately prepared.

5 “(4) ARTIFICIAL REEF SITE.—The term ‘artifi-
6 cial reef site’ means an area within an artificial reef
7 planning area that has been cleared to have decom-
8 missioned platforms placed in the boundaries of the
9 artificial reef planning area to be used as an artifi-
10 cial reef.

11 “(5) COMMANDING GENERAL.—The term ‘Com-
12 manding General’ means the Commanding General
13 of the Corps of Engineers.

14 “(6) DECOMMISSIONING.—The term ‘decommis-
15 sion’ includes removing and moving a platform to an
16 artificial reef site.

17 “(7) DIRECTORS.—The term ‘Directors’
18 means—

19 “(A) the Director of the Bureau of Safety
20 and Environmental Enforcement; and

21 “(B) the Director of the Bureau of Ocean
22 Energy Management.

23 “(8) FINAL APPLICATION.—The term ‘final ap-
24 plication’ means a final application submitted to dis-
25 pose of or remove a platform for use as an artificial

1 reef under section 250.1727(g) of title 30, Code of
 2 Federal Regulations (or successor regulations).

3 “(9) PLATFORM.—The term ‘platform’ means
 4 an offshore oil and gas platform in the Gulf of Mex-
 5 ico.

6 “(10) SECRETARY.—The term ‘Secretary’
 7 means the Secretary of the Interior.”.

8 **SEC. 4. SAVINGS CLAUSES.**

9 Section 208 of the National Fishing Enhancement
 10 Act of 1984 (33 U.S.C. 2106) is amended by adding after
 11 subsection (b) the following:

12 “(c) MISCELLANEOUS.—Nothing in this Act shall—

13 “(1) hinder or invalidate—

14 “(A) the transfer of liability to the person
 15 to whom title of a platform is transferred when
 16 the platform is donated or becomes an artificial
 17 reef; and

18 “(B) any term or condition of any existing
 19 lease; and

20 “(2) require that—

21 “(A) a platform be left standing above the
 22 surface of the water; and

23 “(B) an owner of a platform notify any
 24 party, other than the Directors and the appro-
 25 priate State agencies that coordinate with the

- 1 Commanding General, of any plan to decommis-
- 2 sion a platform before abandonment operations
- 3 commence.”.

