

ARTIFICIAL REEF PROGRAM

CHAPTER 25B. REEFS FOR MARINE LIFE CONSERVATION

16 U.S.C. 1220 (2002). State applications for obsolete ships for use as offshore reefs.

(a) **Conservation of marine life.** Any State may apply to the Secretary of Transportation (hereafter referred to in this Act as the Secretary) for obsolete ships which, but for the operation of this Act, would be designated by the Secretary for scrapping if the State intends to sink such ships for use as an offshore artificial reef for the conservation of marine life.

(b) **Manner and form of applications; minimum requirements.** A State shall apply for obsolete ships under this Act in such manner and form as the Secretary shall prescribe, but such application shall include at least (1) the location at which the State proposes to sink the ships, (2) a certificate from the Administrator, Environmental Protection Agency, that the proposed use of the particular vessel or vessels requested by the State will be compatible with water quality standards and other appropriate environmental protection requirements, and (3) statements and estimates with respect to the conservation goals which are sought to be achieved by use of the ships.

(c) **Copies to Federal officers for official comments and views.** Before taking any action with respect to an application submitted under this Act, the Secretary shall provide copies of the application to the Secretary of the Interior, the Secretary of Defense, and any other appropriate Federal officer, and shall consider comments and views of such officers with respect to the application.

16 U.S.C. 1220a (2001). Transfer of title; terms and conditions. If, after consideration of such comments and views as are received pursuant to section 3(c), the Secretary finds that the use of obsolete ships proposed by a State will not violate any Federal law, contribute to degradation of the marine environment, create undue interference with commercial fishing or navigation, and is not frivolous, he may transfer without consideration to the State all right, title, and interest of the United States in and to any obsolete ships which are available for transfer under this Act if

(1) the State gives to the Secretary such assurances as he deems necessary that such ships will be utilized and maintained only for the purposes stated in the application and, when sunk, will be charted and marked as a hazard to navigation;

(2) the State agrees to secure any licenses or permits which may be required under the provisions of any other applicable Federal law;

(3) the State agrees to such other terms and conditions as the Secretary shall require in order to protect the marine environment and other interests of the United States; and

(4) the transfer would be at no cost to the Government (except for any financial assistance provided under section 7) with the State taking delivery of such obsolete ships at fleetside of the National Defense Reserve Fleet in an _as is_where is_ condition.

16 U.S.C. 1220b (2002). Obsolete ships available; number; equitable administration. A State may apply for more than one obsolete ship under this Act. The Secretary shall, however, taking into account the number of obsolete ships which may be or become available for transfer under this Act, administer this Act in an equitable manner with respect to the various States.

16 U.S.C. 1220c (2002). Denial of applications; finality of decision.

A decision by the Secretary denying any application for a [an] obsolete ship under this Act is final.

16 U.S.C. 1220c-1 (2002). Financial assistance to State to prepare transferred ship

(a) Assistance authorized. The Secretary, subject to the availability of appropriations, may provide, to any State to which an obsolete ship is transferred under this Act, financial assistance to prepare the ship for use as an artificial reef, including for

- (1) environmental remediation;
- (2) towing; and
- (3) sinking.

(b) Amount of assistance. The Secretary shall determine the amount of assistance under this section with respect to an obsolete ship based on_

- (1) the total amount available for providing assistance under this section;
- (2) the benefit achieved by providing assistance for that ship; and
- (3) the cost effectiveness of disposing of the ship by transfer under this Act and provision of assistance under this section, compared to other disposal options for that ship.

c) Terms and conditions. The Secretary_

- (1) shall require a State seeking assistance under this section to provide cost data and

other information determined by the Secretary to be necessary to justify and document the assistance; and

(2) may require a State receiving such assistance to comply with terms and conditions necessary to protect the environment and the interests of the United States.

16 U.S.C. 1220d (2002). Definition of _obsolete ship._ For purposes of sections 3, 4, 5, and 6, the term _obsolete ship_ means any vessel owned by the Department of Transportation that has been determined to be of insufficient value for commercial or national defense purposes to warrant its maintenance an

d preservation in the national defense reserve fleet and has been designated as an artificial reef candidate.

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SECTION 3504. PREPARATION AS ARTIFICIAL REEFS AND SCRAPPING OF OSOLETE VESSELS.

Section 3504(a) of Public Law 107-314, approved December 2, 2002 (116 STAT. 2754), the National Defense Authorization Act for fiscal year 2003, generally amended Chapter 25B of Title 16, United States Code, Reefs for Marine Life Conservation, by inserting 16 U.S.C. 1220c-1, Financial Assistance to State to Prepare Transferred Ship. Chapter 25B is set forth above. Section 3504(b) of Public Law 107-314, provides for Environmental Best Management Practices for Preparing Vessels for Use as Artificial Reefs. Section 3504(b) is set forth below. Section 3504(c) of Public Law 107-314, provides for a Pilot Program on the Export of Obsolete Vessels for Dismantelment and Recycling. Section 3504(c) is set forth at page 313 supra.

Section 3504(b) Environmental Best Management Practices for Preparing Vessels for Use as Artificial Reefs.

(1) Not later than September 30, 2003, the Secretary of Transportation, acting through the Maritime Administration, and the Administrator of the Environmental Protection Agency shall jointly develop environmental best management practices to be used in the preparation of vessels for use as artificial reefs.

(2) The environmental best management practices under paragraph (1) shall be developed in consultation with the heads of other Federal agencies, and State agencies, having an interest in the use of vessels as artificial reefs.

(3) The environmental best management practices under paragraph (1) shall_

(A) include practices for the preparation of vessels for use as artificial reefs to ensure that vessels so prepared will be environmentally sound in their use as artificial reefs;

(B) ensure that such practices are consistent nationwide;

(C) establish baselines for estimating the costs associated with the preparation of vessels for use as artificial reefs; and

(D) include mechanisms to enhance the utility of the Artificial Reefing Program of the Maritime Administration as an option for the disposal of obsolete vessels.

(4) The environmental best management practices developed under paragraph (1) shall serve as national guidelines to be used by Federal agencies for the preparation of vessels for use as artificial reefs.

(5) The Secretary of Transportation shall submit to Congress a report on the environmental best management practices developed under paragraph (1) through the existing ship disposal reporting requirements in section 3502 of Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106_398; 1654A_492)1. The report shall describe such practices, and may include such other matters as the Secretary considers appropriate.

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Section 3504(d) Construction.

Nothing in this section shall be construed to establish a preference for the reefing or export of obsolete vessels in the National Defense Reserve Fleet over other alternatives available to the Secretary for the scrapping of such vessels under section 3502(d)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

1 Set forth in section 3502(d), set forth at page 310, supra.

2 Set forth at page 311, supra.