

## **US Code**

*(Unofficial compilation from the Legal Information Institute)*

### **TITLE 16 - CONSERVATION**

#### **CHAPTER 25B—REEFS FOR MARINE LIFE CONSERVATION**

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## CHAPTER 25B—REEFS FOR MARINE LIFE CONSERVATION

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1220b. Obsolete ships available; number; equitable administration.

1220c. Denial of applications; finality of decision.

1220c-1. Financial assistance to State to prepare transferred ship.

1220d. "Obsolete ship" defined.

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### § 1220. 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 chapter as the "Secretary") for obsolete ships which, but for the operation of this chapter, 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 chapter 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 chapter, 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.

#### (d) United States territory, possession, or Commonwealth; foreign country

Any territory, possession, or Commonwealth of the United States, and any foreign country, may apply to the Secretary for an obsolete vessel to be used for an artificial reef under this section. The application process and reefing of any such obsolete vessel shall be performed in a manner consistent with the process jointly developed by the Secretary of Transportation and the Administrator of the Environmental Protection Agency under section 3504(b) of Public Law 107-314 (16 U.S.C. 1220 note).

(Pub. L. 92-402, § 3, Aug. 22, 1972, 86 Stat. 618; Pub. L. 98-623, title II, § 207(1), (2), Nov. 8, 1984, 98 Stat. 3397; Pub. L. 111-84, div. C, title XXXV, § 3513(a), Oct. 28, 2009, 123 Stat. 2724.)

#### Amendments

2009—Subsec. (d). Pub. L. 111-84 added subsec. (d).

1984—Subsecs. (a), (b). Pub. L. 98-623, § 207, substituted "Secretary of Transportation" for "Secretary of Commerce" and "obsolete ships" for "Liberty ships", wherever appearing.

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**Environmental Best Management Practices for Preparing Vessels for Use as Artificial Reefs**

Pub. L. 107–314, div. C, title XXXV, § 3504(b), Dec. 2, 2002, 116 Stat. 2754, as amended by Pub. L. 108–136, div. C, title XXXV, § 3516, Nov. 24, 2003, 117 Stat. 1795, provided that:

“(1) Not later than March 31, 2004, the Secretary of Transportation, acting through the Maritime Administration, and the Administrator of the Environmental Protection Agency shall jointly develop guidance recommending environmental best management practices to be used in the preparation of vessels for use as artificial reefs.

“(2) The guidance recommending 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 recommended 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) promote consistent use of such practices nationwide;

“(C) provide a basis 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 guidance for Federal agencies for the preparation of vessels for use as artificial reefs.

“(5) Not later than March 31, 2004, the Secretary of Transportation, acting through the Maritime Administration, and the Administrator of the Environmental Protection Agency shall jointly establish an application process for governments of States, commonwealths, and United States territories and possession, and foreign governments, for the preparation of vessels for use as artificial reefs, including documentation and certification requirements for that application process.

“(6) 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) [16 U.S.C. 5405 note ]. The report shall describe such practices, and may include such other matters as the Secretary considers appropriate.”

.....

**§ 1220a. Transfer of title; terms and conditions**

If, after consideration of such comments and views as are received pursuant to section 1220 (c) of this title, 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 chapter 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 chartered 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 1220 (c)(1)<sup>1</sup> of this title) with the State taking delivery of such obsolete ships and titles in an “as-is—where-is” condition at such place and time designated as may be determined by the Secretary of Transportation.

**Footnotes**

<sup>1</sup> See References in Text note below.

(Pub. L. 92–402, § 4, Aug. 22, 1972, 86 Stat. 618; Pub. L. 98–623, title II, § 207(1), (3), Nov. 8, 1984, 98 Stat. 3397; Pub. L. 107–314, div. C, title XXXV, § 3504(a)(2), Dec. 2, 2002, 116 Stat. 2754; Pub. L. 109–163, div. C, title XXXV, § 3505(c), Jan. 6, 2006, 119 Stat. 3552.)

**References in Text**

Section 1220 (c)(1) of this title, referred to in par. (4), probably means section 7 of Pub. L. 92–402, which is classified to section 1220c–1 of this title.

**Amendments**

2006—Par. (4). Pub. L. 109–163 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “the transfer would be at no cost to the Government (except for any financial assistance provided under section 1220c–1 of this title) with the State taking delivery of such obsolete ships at fleetside of the National Defense Reserve Fleet in an ‘as is—where is’ condition.”

2002—Par. (4). Pub. L. 107–314 inserted “(except for any financial assistance provided under section 1220c–1 of this title)” after “at no cost to the Government”.

1984—Pub. L. 98–623 substituted “obsolete ships” for “Liberty ships” wherever appearing in provisions preceding par. (1) and in par. (4), and substituted “may transfer” for “shall transfer” in provisions preceding par. (1).

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**§ 1220b. Obsolete ships available; number; equitable administration**

A State may apply for more than one obsolete ship under this chapter. The Secretary shall, however, taking into account the number of obsolete ships which may be or become available for transfer under this chapter, administer this chapter in an equitable manner with respect to the various States.

(Pub. L. 92–402, § 5, Aug. 22, 1972, 86 Stat. 618; Pub. L. 98–623, title II, § 207(1), Nov. 8, 1984, 98 Stat. 3397.)

**Amendments**

1984—Pub. L. 98–623 substituted “obsolete ships” for “Liberty ships” wherever appearing.

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**§ 1220c. Denial of applications; finality of decision**

A decision by the Secretary denying any application for a <sup>1</sup> obsolete ship under this chapter is final.

**Footnotes**

<sup>1</sup> So in original. Probably should be “an”.

(Pub. L. 92–402, § 6, Aug. 22, 1972, 86 Stat. 618; Pub. L. 98–623, title II, § 207(1), Nov. 8, 1984, 98 Stat. 3397.)

**Amendments**

1984—Pub. L. 98–623 substituted “obsolete ship” for “Liberty ship”.

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**§ 1220c–1. Financial assistance to State to prepare transferred ship**

**(a) Assistance authorized**

*TITLE 16 - Section 1220d - Obsolete ship defined*

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The Secretary, subject to the availability of appropriations, may provide, to any State to which an obsolete ship is transferred under this chapter, 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 chapter 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.

**(d) Limitation**

The Secretary may not provide assistance under this section to a foreign country to which an obsolete ship is transferred under this chapter.

(Pub. L. 92–402, § 7, as added Pub. L. 107–314, div. C, title XXXV, § 3504(a)(1)(B), Dec. 2, 2002, 116 Stat. 2754; amended Pub. L. 111–84, div. C, title XXXV, § 3513(b), Oct. 28, 2009, 123 Stat. 2724.)

**Prior Provisions**

A prior section 7 of Pub. L. 92–402 was renumbered section 8 and is classified to section 1220d of this title.

**Amendments**

2009—Subsec. (d). Pub. L. 111–84 added subsec. (d).

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**§ 1220d. “Obsolete ship” defined**

For purposes of sections 1220, 1220a, 1220b, and 1220c of this title, 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 and preservation in the national defense reserve fleet and has been designated as an artificial reef candidate.

(Pub. L. 92–402, § 8, formerly § 7, as added Pub. L. 98–623, title II, § 207(4), Nov. 8, 1984, 98 Stat. 3397; renumbered § 8, Pub. L. 107–314, div. C, title XXXV, § 3504(a)(1)(A), Dec. 2, 2002, 116 Stat. 2754.)