

## **US Code**

*(Unofficial compilation from the Legal Information Institute)*

### **TITLE 43 - PUBLIC LANDS**

#### **CHAPTER 39—ABANDONED SHIPWRECKS**

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**TITLE 43 PUBLIC LANDS**

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## CHAPTER 39—ABANDONED SHIPWRECKS

Sec.

2101. Findings.

2102. Definitions.

2103. Rights of access.

2104. Preparation of guidelines.

2105. Rights of ownership.

2106. Relationship to other laws.

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### § 2101. Findings

The Congress finds that—

- (a) States have the responsibility for management of a broad range of living and nonliving resources in State waters and submerged lands; and
- (b) included in the range of resources are certain abandoned shipwrecks, which have been deserted and to which the owner has relinquished ownership rights with no retention.

(Pub. L. 100–298, § 2, Apr. 28, 1988, 102 Stat. 432.)

#### Short Title

Section 1 of Pub. L. 100–298 provided that: “This Act [enacting this chapter] may be cited as the ‘Abandoned Shipwreck Act of 1987’.”

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### § 2102. Definitions

For purposes of this chapter—

- (a) the term “embedded” means firmly affixed in the submerged lands or in coralline formations such that the use of tools of excavation is required in order to move the bottom sediments to gain access to the shipwreck, its cargo, and any part thereof;
- (b) the term “National Register” means the National Register of Historic Places maintained by the Secretary of the Interior under section 470a of title 16;
- (c) the terms “public lands”, “Indian lands”, and “Indian tribe” have the same meaning given the terms in the Archaeological Resource<sup>1</sup> Protection Act of 1979 (16 U.S.C. 470aa–470ll);
- (d) the term “shipwreck” means a vessel or wreck, its cargo, and other contents;
- (e) the term “State” means a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands; and
- (f) the term “submerged lands” means the lands—
  - (1) that are “lands beneath navigable waters,” as defined in section 1301 of this title;
  - (2) of Puerto Rico, as described in section 749 of title 48;
  - (3) of Guam, the Virgin Islands and American Samoa, as described in section 1705 of title 48; and
  - (4) of the Commonwealth of the Northern Mariana Islands, as described in section 801 of Public Law 94–241.<sup>2</sup>

#### Footnotes

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

<sup>2</sup> See References in Text note below.

(Pub. L. 100–298, § 3, Apr. 28, 1988, 102 Stat. 432.)

### References in Text

The Archaeological Resource Protection Act of 1979, referred to in subsec. (c), is Pub. L. 96–95, Oct. 31, 1979, 93 Stat. 721, as amended, which is classified generally to chapter 1B (§ 470aa et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of Title 16 and Tables.

Section 801 of Public Law 94–241, referred to in subsec. (f)(4), probably means section 801 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as contained in section 1 of Pub. L. 94–241, Mar. 24, 1976, 90 Stat. 263, which is set out as a note under section 1801 of Title 48, Territories and Insular Possessions.

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## § 2103. Rights of access

### (a) Access rights

In order to—

- (1) clarify that State waters and shipwrecks offer recreational and educational opportunities to sport divers and other interested groups, as well as irreplaceable State resources for tourism, biological sanctuaries, and historical research; and
- (2) provide that reasonable access by the public to such abandoned shipwrecks be permitted by the State holding title to such shipwrecks pursuant to section 2105 of this title,

it is the declared policy of the Congress that States carry out their responsibilities under this chapter to develop appropriate and consistent policies so as to—

- (A) protect natural resources and habitat areas;
- (B) guarantee recreational exploration of shipwreck sites; and
- (C) allow for appropriate public and private sector recovery of shipwrecks consistent with the protection of historical values and environmental integrity of the shipwrecks and the sites.

### (b) Parks and protected areas

In managing the resources subject to the provisions of this chapter, States are encouraged to create underwater parks or areas to provide additional protection for such resources. Funds available to States from grants from the Historic Preservation Fund shall be available, in accordance with the provisions of title I of the National Historic Preservation Act, for the study, interpretation, protection, and preservation of historic shipwrecks and properties.

(Pub. L. 100–298, § 4, Apr. 28, 1988, 102 Stat. 433.)

### References in Text

The National Historic Preservation Act, referred to in subsec. (b), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended. Title I of the Act is classified generally to sections 470a, 470b, and 470c to 470h–3 of Title 16, Conservation. For complete classification of this Act to the Code, see section 470 (a) of Title 16 and Tables.

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## § 2104. Preparation of guidelines

### (a) Purposes of guidelines; publication in Federal Register

In order to encourage the development of underwater parks and the administrative cooperation necessary for the comprehensive management of underwater resources related to historic shipwrecks, the Secretary of the Interior, acting through the Director of the National Park Service, shall within nine months after April 28, 1988, prepare and publish guidelines in the Federal Register which shall seek to:

- (1) maximize the enhancement of cultural resources;
- (2) foster a partnership among sport divers, fishermen, archeologists, salvors, and other interests to manage shipwreck resources of the States and the United States;

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- (3) facilitate access and utilization by recreational interests;
- (4) recognize the interests of individuals and groups engaged in shipwreck discovery and salvage.

**(b) Consultation**

Such guidelines shall be developed after consultation with appropriate public and private sector interests (including the Secretary of Commerce, the Advisory Council on Historic Preservation, sport divers, State Historic Preservation Officers, professional dive operators, salvors, archeologists, historic preservationists, and fishermen).

**(c) Use of guidelines in developing legislation and regulations**

Such guidelines shall be available to assist States and the appropriate Federal agencies in developing legislation and regulations to carry out their responsibilities under this chapter.

(Pub. L. 100–298, § 5, Apr. 28, 1988, 102 Stat. 433.)

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**§ 2105. Rights of ownership**

**(a) United States title**

The United States asserts title to any abandoned shipwreck that is—

- (1) embedded in submerged lands of a State;
- (2) embedded in coralline formations protected by a State on submerged lands of a State; or
- (3) on submerged lands of a State and is included in or determined eligible for inclusion in the National Register.

**(b) Notice of shipwreck location; eligibility determination for inclusion in National Register of Historic Places**

The public shall be given adequate notice of the location of any shipwreck to which title is asserted under this section. The Secretary of the Interior, after consultation with the appropriate State Historic Preservation Officer, shall make a written determination that an abandoned shipwreck meets the criteria for eligibility for inclusion in the National Register of Historic Places under clause (a)(3) of this section.

**(c) Transfer of title to States**

The title of the United States to any abandoned shipwreck asserted under subsection (a) of this section is transferred to the State in or on whose submerged lands the shipwreck is located.

**(d) Exception**

Any abandoned shipwreck in or on the public lands of the United States is the property of the United States Government. Any abandoned shipwreck in or on any Indian lands is the property of the Indian tribe owning such lands.

**(e) Reservation of rights**

This section does not affect any right reserved by the United States or by any State (including any right reserved with respect to Indian lands) under—

- (1) section 1311, 1313, or 1314 of this title; or
- (2) section 414 or 415 of title 33.

(Pub. L. 100–298, § 6, Apr. 28, 1988, 102 Stat. 433.)

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**§ 2106. Relationship to other laws**

**(a) Law of salvage and law of finds**

**TITLE 43 - Section 2106 - Relationship to other laws**

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The law of salvage and the law of finds shall not apply to abandoned shipwrecks to which section 2105 of this title applies.

**(b) Laws of United States**

This chapter shall not change the laws of the United States relating to shipwrecks, other than those to which this chapter applies.

**(c) Effective date**

This chapter shall not affect any legal proceeding brought prior to April 28, 1988.

(Pub. L. 100–298, § 7, Apr. 28, 1988, 102 Stat. 434.)