

Please note: This text is from the fourth edition of *Federal Historic Preservation Laws*, published in 2006 by the National Center for Cultural Resources, National Park Service, Department of the Interior. This edition contains 24 Federal laws and portions of laws that pertain to the preservation of the Nation's cultural heritage.

The citations in this book are no longer up-to-date. We have retained this edition online for its historic value, and for the plain-language context that it provides about these laws.

Please consult our webpage about Federal Historic Preservation Laws, Regulations, and Orders at <http://www.nps.gov/history/laws.htm> for up-to-date citations and links to the current text of Federal historic preservation laws.

Abandoned Shipwreck Act

This Act became law on April 28, 1988 (Public Law 100-298; 43 U.S.C. 2101-2106). It has not been amended. This description of the Act tracks the language of the United States Code except that (following common usage) we refer to the “Act” rather than to the “subchapter” or the “title” of the Code.

43 U.S.C. 2101,
Findings

Section 2

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.

43 U.S.C. 2102,
Definitions

Section 3

For purposes of this Act—

- (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 101 of the National Historic Preservation Act [16 U.S.C. 470a];
- (c) the terms “**public lands**”, “**Indian lands**”, and “**Indian tribe**” have the same meaning given the terms in the Archaeological Resources 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 2 of the Submerged Lands Act [43 U.S.C. 1301];

Abandoned Shipwreck Act

(2) of Puerto Rico, as described in section 8 of the Act of March 2, 1917, as amended [48 U.S.C. 749];

(3) of Guam, the Virgin Islands and American Samoa, as described in section 1 of Public Law 93-435 [48 U.S.C. 1705]; and

(4) of the Commonwealth of the Northern Mariana Islands, as described in section 801 of Public Law 94-241 (48 U.S.C. 1681).

43 U.S.C. 2103,
Rights of access

43 U.S.C. 2103(a),
Access rights, historic
preservation, environ-
mental protection

Section 4

(a) 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 6 of this Act [43 U.S.C. 2105];

it is the declared policy of the Congress that States carry out their responsibilities under this Act 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.

43 U.S.C. 2103(b),
Parks and protected
areas, grants

(b) In managing the resources subject to the provisions of this Act, 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 [16 U.S.C. 470 et seq.], for the study, interpretation, protection, and preservation of historic shipwrecks and properties.

Abandoned Shipwreck Act

43 U.S.C. 2104,
Preparation of
guidelines

43 U.S.C. 2104(a),
Purpose of guidelines,
Federal Register
publication

43 U.S.C. 2104(b),
Consultation in
developing guidelines

43 U.S.C. 2104(c),
Guidelines, regula-
tions, and legislation

43 U.S.C. 2105,
Rights of ownership

43 U.S.C. 2105(a),
United States title

Section 5

(a) 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;

(3) facilitate access and utilization by recreational interests;

(4) recognize the interests of individuals and groups engaged in shipwreck discovery and salvage.

(b) 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) 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 Act.

Section 6

(a) 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.

Abandoned Shipwreck Act

43 U.S.C. 2105(b),
Public notice of
shipwreck location,
National Register
eligibility

(b) 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 subsection (a)(3) of this section.

43 U.S.C. 2105(c),
Transfer of title to
States

(c) 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.

43 U.S.C. 2105(d),
Shipwrecks on Federal
or Indian land

(d) 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.

43 U.S.C. 2105(e),
Reservation of rights

(e) 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 3, 5, or 6 of the Submerged Lands Act [43 U.S.C. 1311, 1313, or 1314]; or

(2) section 19 or 20 of the Act of March 3, 1899 [33 U.S.C. 414 and 415].

43 U.S.C. 2106,
Relationship to other
laws

Section 7

43 U.S.C. 2106(a),
Law of salvage and
the law of finds

(a) The law of salvage and the law of finds shall not apply to abandoned shipwrecks to which section 6 of this Act [43 U.S.C. 2105] applies.

43 U.S.C. 2106(b),
Laws of the United
States

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

43 U.S.C. 2106(c),
Effective date

(c) This Act shall not affect any legal proceeding brought prior to April 28, 1988 [the date of enactment of this Act].